THE

CODE OF CRIMINAL PROCEDURE,

(ACT X OF 1882)

AS AMENDED UP TO APRIL 1891,

WITH

AN INTRODUCTION

AND AN ELABORATE INDEX.

THIRD EDITION.

E008025
Sarasvati Mahal Library.Thanjavur

MADRAS:
HIGGINBOTHAM AND CO.
By Appointment in India to His Royal Highness the Prince of Wales.
1892.

MADRAS:
PRINTED BY HIGGINBOTHAM & CO.
$\frac{1}{164}$, $\frac{2}{164}$ & 165, MOUNT ROAD.

PUBLISHERS' PREFACE.

THIS is a reprint of the edition of the Criminal Procedure Code published by the Government of India in 1888, with the amendments to April 1891 embodied. The INTRODUCTION, based on the "Statement of objects and reasons" that accompanied the original Bill and the report of the Select Committee, takes a comprehensive view of the arrangement of the whole Code and generally of the chief alterations made therein. To facilitate reference, the table shewing the section-numbers of the superseded Acts as compared with the new Code, published with the amended Bill, is also prefixed.

A good Index, specially compiled for this edition, is appended.

H. & CO.

June, 1892.

INTRODUCTION.

THE primary object of this Code is to introduce into India one simple and uniform system of law in regard to Criminal Procedure. It consolidates three previously existing Codes, *viz.*, Act X of 1872, as amended, Act IX of 1875, and Act IV of 1877, and a number of outlying enactments. The provisions of these enactments, in many cases, repeated one another, and in others, though dealing with the same subjects, varied in substance and in language. The whole of the previously existing processual law of India as applicable to Criminal Courts has been collated, systematically re-cast and re-arranged.

As remarked by the Hon'ble WHITLEY STOKES, the Code, which has been elaborated with much care, may be truly regarded "as the work of the whole body of Indian Judges and Magistrates rather than that of any individual or any department." It is considered by men best qualified to form an opinion, to be most admirable and likely to provide the country with a Criminal Procedure that in theory at least will leave but little to be desired. The faults of the superseded Acts, as far as practicable, have been corrected, doubts, where they existed, have been removed, and every improvement that the present state of legal knowledge could suggest, effected. No pains have been spared to make the provisions of the present Code both plain and practicable. Nothing has been altered save what could be clearly shewn to be defective or inconsistent, and nothing has been added, except what is supported by decisions of Courts and similar Codes are necessary for the main purposes of the Act.

The Code is divided into nine parts, arranged on a simple principle. After disposing of necessary preliminary matters and the prevention of inchoate offences and arrests, it follows the course of a case in its natural order. Beginning with the stage at which crime is suspected or committed, it proceeds step by step to the

passing of sentence, execution, references, revision, and appeal. Exceptional incidents and supplementary arrangements are separately dealt with. Below are recapitulated the divisions of the Code and the chief changes made in the law.

PART I refers to PRELIMINARY matter, such as repeal of enactments, definitions, &c.

PART II deals with the CONSTITUTION AND POWERS OF COURTS AND OFFICES. It consists of two chapters.

Chap. II relates to *Classes of Courts; to territorial divisions; to Courts and offices in the Mofussil; to Presidency Magistrates; to Justices of the Peace; and to the suspension and removal of Judges, Magistrates and Justices.* The alterations in this portion of the Code are few and mostly verbal. Power has been given to District Magistrates to make rules as to the distribution of business among the Magistrates and Benches in their district. And similarly to Sessions Judges for the regulation of business among Assistant Judges. The chief Presidency Magistrate is expressly empowered to exercise all the powers conferred by the Code and to make rules for distribution of work. Native High Court Judges, under the new Code, are Justices of the Peace.

Chap. III prescribes the *offences cognizable, and the sentences that may be passed by each class of Courts; the ordinary and additional powers to be exercised by Magistrates; and the conferment, continuance and cancellation of powers.* When fine is imposed the alternative imprisonment in default is to be simple. For purposes of confirmation or appeal, aggregate sentences are treated as a simple sentence. Government is empowered to make rules for the guidance of Bench Magistrates. First class Magistrates are to try offences under special or local laws punishable with more than seven years' imprisonment. Powers of an officer in charge of a Police-station are conferred on first and second class Magistrates and on third class Magistrates specially authorized. The Police powers of investigation that may be exercised by Magistrates are defined. Special powers conferred on an officer lapse on transfer from a province subordinate to one Government to that of another.

PART III contains certain GENERAL PROVISIONS which it seemed

convenient to group together, and which, to prevent forward references, stand near the beginning of the Code. Here again the changes in the law are little more than verbal, but some useful amendments in substance have also been made.

Chap. IV, Aid and information to be given to Magistrates, the Police and persons making arrests. To offences which the public are bound to assist in preventing have been added attempts to injure public property, railways, telegraphs and canals, but no one need assist unless his aid is reasonably demanded. Village headmen, owners and occupiers of land, whether Native or European, and certain officials named are bound to communicate to the nearest Magistrates and officers in charge of Police-stations, in addition to other information, any particulars they may obtain respecting the residence or passage through the village of escaped convicts or proclaimed offenders and of suspicious deaths.

Chap. V, Arrest, escape and re-taking. Power is given to the Police to break open doors of houses with a view to liberate persons who may have lawfully entered for the purpose of making arrests therein; and to take from those arrested any offensive weapons they may have about them. The right to cause death in using means for the arrest of persons not accused of a capital offence, forcibly resisting such arrest or attempting to escape is withheld. And so has been the power to arrest, without warrant, persons against whom a hue and cry has been raised. Masters and Mates have now no authority under the Code, to apprehend deserters from their vessels as the matter is provided for in the Merchant Shipping Act, 1880.

Chap. VI, Processes to compel appearance. Provision is now made for the service of summons by an officer of the Court. In Mofussil Courts the seal of the Magistrate is now no longer required to warrants. Doubts are removed as to date of publication of a proclamation in regard to persons absconding against whom a warrant has been issued, and of the commencement of, and the period for, his appearance. Provision is made in regard to the mode of attaching debts and other moveable property belonging to persons avoiding the execution of warrants by absconding or concealment; and in respect of the powers, duties and liabilities of Receivers.

B

Chap. VII, Processes compel production of documents and other moveable property, and for the discovery of persons wrongfully confined. Personal attendance simply to produce is now specifically dispensed with; and the provisions of the Evidence Act in regard to evidence as to officers of State and the disclosure of official communications are specially reserved. As a rule general warrants are not to be issued. The inventory of property found in execution of a search-warrant is to be signed by the persons in whose presence the search has been made. And power to issue warrants to search for persons wrongfully confined is now conferred on certain classes of Magistrates.

PART IV relates to the PREVENTION OF INCHOATE OFFENCES and to THE ARREST OF SUCH AS ARE IN OPERATION.

Chap. VIII, Security for keeping the peace and for good behaviour. The provisions in regard to security for keeping the peace are extended to criminal intimidation by threatening injury to person or property; and those for good behaviour to persons who habitually commit extortion, or, in order to commit extortion, habitually put or attempt to put others in fear of injury. The words which gave the Magistrate power to demand security from persons "of notoriously bad livelihood or dangerous character" which found a place in the superseded Code, are omitted in this. The Magistrate is now empowered to make an order as to the class and character of the securities, the object being not merely to provide a money-security, but also to obtain respectable persons as guarantees for good behaviour and to prevent traffic as sureties. A person imprisoned for default of security may give the security required to the officer in charge of the jail. The security bond becomes void when the conviction is set aside on appeal or otherwise. A Magistrate can only discharge securities when the bond has been executed in his own territorial jurisdiction; and when he cancels the bond, his reasons for so doing must be recorded. If before the expiration of the original bond, it appear to the Magistrate unsafe to release the obligor at the end of the term specified, fresh proceedings must be instituted. This supersedes s. 499, Act X of 1872, and s. 211, Act IV of 1877. Changes are also made in regard to the manner of conducting inquiries and other minor powers.

Chap. IX, Dispersion of unlawful assemblies. Volunteers have been put on the same footing as soldiers of the Army. Military officers dispersing unlawful assemblies, are to act in communication with a Magistrate at any stage when possible and not to act independently.

Chaps. X and XI, Public nuisances. Keeping goods or merchandise injurious to health is now included among nuisances. Chap. XI is intended to apply to emergent cases where a speedy remedy is desirable, but orders issued under it are not to remain in force for more than two months. When time permits, the procedure must be under Chap. X.

Chap. XII, Disputes as to immoveable property. These are now limited to physical possession. It is settled that the report of the person deputed to make an inquiry is admissible in evidence; and the Magistrate may now make order as to costs.

Chap. XIII, Preventive action of the Police. A few verbal alterations only have been made in this portion of the Code.

PART V deals with the subject of INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE. It consists of a single chapter.

Chap. XIV, A Police officer is not now debarred, though he was before, from investigating a case of cognizable offence because he does not, at starting, feel himself justified in arresting any person. The reception in evidence of statements made to the Police are subject to the provisions of the Evidence Act. The mode of taking and recording confessions is now slightly altered; and so of making searches by the Police. When a Police investigation cannot be completed in twenty-four hours, accused is to be sent to the *nearest* Magistrate instead of, as formerly, to the Magistrate having jurisdiction. In bailable offences, accused may give security for appearance before Magistrate. Power, resembling that conferred on the Coroner, to disinter and examine corpses in order to discover cause of death, is given to Magistrates authorized to hold inquests.

PART VI treats of PROCEEDINGS IN PROSECUTIONS UP TO APPEAL, and is divided into sixteen chapters arranged as near as can be, according to the chronological order of the events in prosecution.

Chap. XV, Jurisdiction of criminal Courts in inquiries and trials; place of inquiry or trial; conditions requisite for initiation of proceedings such as the receipt of a complaint, of a Police report, of information from private persons, commitments, &c. The provisions of the Foreign Jurisdiction Act, 1879, respecting the liability of British subjects for offences committed out of British India and the reception in evidence of depositions made before Political Agents are transferred to this part of the Code. District Magistrates are empowered to authorize a first class Magistrate who has taken cognizance of a case to transfer it for inquiry or trial to any other specified and competent Magistrate. And so is a Court to which an appeal would ordinarily lie to revoke or accord sanction for the prosecution of offences specified in s. 195 given or refused by a lower Court.

Chap. XVI, Complaints to Magistrates. Complainants need now be only examined when the complaint is not in writing. Such examination must be on oath. If the complaint in writing is presented to a Court not competent to take cognizance of the case, it is to be returned for presentation to the proper tribunal; but no mention is made as to how complaints not in writing are to be dealt with. Under the superseded Code, s. 145, these were referred to a competent Court. Third class Magistrates cannot now postpone the issue of processes pending local investigation; but all other Magistrates authorized to postpone, must record their reasons for distrusting the truth of the complaint. They may inquire into the case themselves or order a local investigation to be made by any person not being a Magistrate or Police officer.

Chap. XVII, Commencement of proceedings before a Magistrate. It is now made clear that in warrant-cases, a Magistrate may, in his discretion, issue either a warrant or a summons in the first instance for the appearance of the accused. The Magistrate trying the case is now also authorized to require the personal appearance of the accused when required, instead of, as formerly, the Magistrate issuing the summons in the first instance.

Chap. XVIII, Enquiry into cases triable by Sessions Courts or High Courts. Power is given to the Magistrate to discharge the

accused at any stage of the case if, for reasons to be recorded, he consider the charge groundless.

Chap. XIX, The Charge. What the expression "offences of the same kind" means is now specifically defined. Under the head of joinder of charges, it is provided that if several acts, of which one or more constitute an offence in itself or themselves, but when combined establish a different offence, the accused may be charged with and tried for either the offence constituted by the one or more of the acts or the offence constituted by the combined acts. When the circumstances proved substantiate an offence of less gravity than that with which he is charged, he may be convicted of such minor offence though not specifically charged with it. The complainant is now privileged, on conviction of accused on one or more of several charges, to withdraw the remainder.

Chap. XX, Trial of summons-cases by Magistrate. Under the superseded Code, if the complainant did not appear, the complaint was dismissed and this operated as an acquittal. Now the accused is to be at once formally acquitted unless the Magistrate see reason to adjourn the hearing. In cases instituted otherwise than on complaint, the Magistrate may now stay proceedings at any stage without pronouncing judgment and release accused. Civil Courts in suits before them are required to take into account any sum paid or recorded as compensation under this Code.

Chap. XXI, Trial of warrant-cases by Magistrate. The unrestricted power given under the superseded Code, to the accused to re-call witnesses is now limited to the re-call of those present in the Court or its precincts. Application of accused to summons witness can now be refused only on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

Chap. XXII, Summary Trials. Hurt, assisting concealment or disposal of stolen property of not greater value than 50 rupees, and attempts to commit any of the offences triable under this chapter, are added to the list of offences so triable. Government are empowered to extend the jurisdiction of certain Bench Magistrates to the trial of certain specified offences summarily and abetments and attempts to commit offences. No sentence of imprisonment for

a longer term than three months can now be passed in summary trials.

Chap. XXIII, Trials before High Courts and Courts of Session. A common procedure is now provided for the High Courts and Courts of Session. The power of directing how jurors are to be chosen is now transferred from the Government to the High Court. The same course is to be followed in the case of a juror, discovered in the course of a trial, to be unable to understand the language in which evidence is given or is interpreted as that when a juror ceases to attend, &c. The witness must now be examined as well as produced before his deposition can be treated as evidence. The Court is authorized, if it be of opinion that there is no evidence that the accused committed the offence, to record a finding or direct a jury to return a verdict of not guilty, whether the accused offers to produce evidence or not. In such cases tried with the aid of assessors, their opinion need not be asked. Prosecutor is now entitled to reply, if the accused or one of several accused intimates that he means to offer evidence though it be not produced. The Court may now exempt jurors or assessors from being immediately brought back after view. When the Sessions Judge disagrees with the verdict of the jury as to acquittal he is to state, in submitting the case to the High Court, the offence which he considers has been committed. In dealing with the case, the High Court may now exercise any of the powers which it may exercise on an appeal. In cases tried with aid of assessors the Judge may sum up the evidence. Previous convictions are not to be read out to the jury or assessors until the accused has pleaded guilty to, or been convicted of, the substantive offence for which he is tried. The provisions of the superseded Code, leaving it optional to exempted jurors or assessors to avail themselves of the exemption or not, and authorizing Sessions Judges to issue summons to exempted persons requiring them to serve on the trial of a European British subject have been omitted. The limit as to residence of persons liable to serve as jurors or assessors within 10 miles of place of trial has been removed. No prosecution of an accomplice who has accepted a tender of pardon for giving false evidence is to be entertained without the sanction of the High Court. If he fail to disclose

material facts or give false evidence he may now be tried for the offence in respect of which the pardon was tendered as also for any other offence committed in connection with the same matter. The power of interrogating the accused is now confined to questions calculated to elicit explanation of any circumstance in the evidence tending to criminate him, with a view to enable the Court, in cases where the accused is undefended, to examine the witnesses in his interests. It is not intended so to interrogate the accused as to draw forth from him statements that would lead to his conviction. The provisions of the Code as to compoundable offences are now explicit, all existing doubts as to such offences being removed. Proceedings are to be stayed if the Magistrate discover that the case is one that should be tried by or committed to some other Magistrate in the district. When a Subordinate Magistrate considers it necessary that the accused should execute a bond for keeping the peace, he may record his opinion and submit the case for the judgment of the District or Sub-Divisional Magistrate. A person attending Court can now only be detained if the offence he appears to have committed is cognizable by the Court he attended, and not otherwise. The mode of taking and recording evidence in enquiries is provided for in this chapter.

Chap. XXVI, The Judgment. Judgments may now be written in the mother-tongue of the presiding officer instead of, as before, in that of the district. Copies of judgments are to be given to accused free of cost in any case other than summons-cases. A translation of the judgment need not be filed with the record unless the accused so requires.

Chap. XXVII, Submission of sentences for confirmation. Power has been given to the High Court to make or order further enquiry as well as to take or order additional evidence to be taken in the case of capital sentences submitted for confirmation. So also to convict accused of any offence of which the Sessions Court might have convicted him. In like manner in cases submitted by an Assistant Judge or Magistrate for the confirmation of a Sessions Judge, the latter may acquit the accused. Formerly he had power only to "modify" the sentence.

Chap. XXVIII, Execution. In case of pregnant women, commutation of capital sentences is now restricted to transportation for life. In cases where an offender is sentenced to fine only and to imprisonment in default, the Court is authorized to suspend execution of the alternative sentence of imprisonment, releasing him on his furnishing security; and in the event of the fine not being realised, to direct the sentence of imprisonment to be carried into effect. Whipping with a cat-o'-nine-tails is abolished, and a light rattan substituted for the whip. Males apparently of more than forty-five years of age are now exempt from corporal punishment. Imprisonment awardable in lieu of whipping is now limited to twelve months, except where the imprisonment prescribed for the offence or the Court is competent to inflict is for a less term.

Chap. XXIX, Suspension, Remission and Commutation of sentences. When applications are made for the suspension or remission of sentences, Government may require the Court to state its opinion as to whether the application should be granted or refused, together with its reasons for such opinion. Fine has been added as one of the punishments for which a sentence may be commuted.

Chap. XXX, Previous acquittals or convictions. The provisions of the Code under this head are substantially what they were before.

PART VII relates to APPEAL, REFERENCE AND REVISION.

Chap. XXXI, Appeals. Two new cases in which an appeal may lie are added to those previously existing, *viz.*, from an order of applications for restoration of attached property; and from convictions in contempt cases by Presidency Courts of small Causes. Appeals from sentences of a Magistrate of the second or third class now lie to the District Magistrate and not as formerly to a Magistrate of the first class especially empowered to hear appeals; but the former is authorized to direct the latter to hear such appeals. Appeals from a District Magistrate exercising enhanced powers or put on the same footing as those from Assistant Judges. No appeal is to be summarily dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support. The power of enhancing sentences on appeals from convicted per-

sons is now withdrawn. The Court may alter the nature of the sentence, but not so as to enhance it. So also may the verdict of a jury be altered or reversed when erroneous owing to misdirection. Judgments of subordinate Appellate Courts are governed by the rules contained in Chapter XXVI. The High Court is now empowered to order suspension of sentence and release of convict on bail. When an appeal from an acquittal is preferred, the High Court may order the accused to be arrested and brought before it and commit him to prison or receive bail pending the disposal of appeal. Appeals abate on death of accused.

Chap. XXXII, Reference and Revision. Sub-divisional Magistrates empowered by the Local Government on this behalf are now authorized to call for the records of inferior Courts; and may forward them with such remarks as he may deem fit to the District Magistrate. When in the opinion of the Sessions Court or Magistrate the accused was improperly discharged by the inferior Court, he is to be allowed an opportunity of showing why he should not be re-committed. Sentences recommended for reversal may now be suspended pending orders, and accused, if in confinement, may be released on bail or on his own bond. The High Court is now allowed, when exercising revisional jurisdiction, to interfere with improper acquittals, except entries on unsustainable charges made by one of its Judges. Its revisional powers are also extended to granting or revoking sanction to prosecute certain cases, to the tender of pardon and to enhancement of sentence.

PART VIII deals with SPECIAL PROCEEDINGS, in respect of the procedure against Europeans and Americans; Lunatics; contempts of Court and other offences affecting the administration of justice; maintenance of wives and children; and proceedings in the nature of *habeas corpus*.

Chap. XXXIII, Proceedings against Europeans and Americans. If a Sessions Judge decide to transfer a case to the High Court, the transfer must be made after commitment and before signing judgment. If the Sessions Judge to whom a case is committable happen not to be a European British subject, the Magistrate must report the circumstance to the highest Court of Criminal Appeal in the province and not as heretofore to the High Court. In cases

of trial by a mixed jury or assessors a moiety may now be made up of Europeans and Americans. If an accused claiming to be a European British subject, omits, when claim is disallowed by the Magistrate, again to urge it before the Court to which he is committed, such omission operates as a waiver. The right enjoyed under the superseded Code, of a European or an American not a British subject to be tried exclusively by jury, has been withdrawn.

Chap. XXXIV, Lunatics. The provisions of the law on this subject are now made to apply to preliminary enquiries as well as to trials. The power to discharge from custody or to make over to his relative a person acquitted on the ground of insanity is extended to persons who, being found to be insane at the time of trial, are committed to custody.

Chap. XXXV, Proceedings in respect of offences affecting the administration of justice. Certain provisions of this chapter are specially made applicable to Revenue Courts. In prosecutions for contempt, &c., the case is to be sent to the nearest Magistrate of the first class, instead of, as formerly, to any Magistrate having power to try. The Sessions Court may now charge a person for giving false evidence before itself, a power of which it was intentionally deprived under the superseded Code; and may enquire into and commit the case to the High Court or Court of Sessions. Under the superseded Code imprisonment in default of payment of fine was to be in a Civil Jail. The new Code is silent on this point. Sub-Registrars, when Government so directs, are Civil Courts. In cases of refusal to answer questions or produce document, offender may now be committed to the custody of an officer of the Court. The difficulty felt under the superseded Code of determining the meaning of the phrase "offence committed in contempt of its own authority" is now removed.

Chap. XXXVI, Maintenance of wives and children. Imprisonment is now to be awarded only when the allowance remains unpaid after execution of the warrant of distress. Magistrates are also now empowered to cancel an order for maintenance when it is proved that the wife is living in adultery or without sufficient reason refuses to live with her husband, or that they are living

separately by mutual consent. It is further now provided that evidence under this chapter shall be recorded in the presence of the husband or father, as the case may be; and in the manner prescribed for summons-cases.

Chap. XXXVII, Directions of the nature of a habeas corpus. The power to call up committed prisoners to be bailed, is withdrawn; so also is the exemption to issue a *habeas corpus* writs in cases specified in this chapter.

PART *IX* contains certain PROVISIONS SUPPLEMENTARY to the general rules of procedure contained in this Code.

Chap. XXXVIII, Public Prosecutor. Sub-divisional Magistrates are now empowered to nominate a public prosecutor. The appointment of Police officer to this office is restricted to those not below the rank of Assistant District Superintendent. Prosecutions as well as, as formerly, charges may now be withdrawn before pronouncing of verdict or judgment. If withdrawn before charge is framed accused to be discharged, if after, or where no charge is required, to be acquitted.

Chap. XXXIX, Bail. The powers given under this chapter to Police officers are expressly confined to officers in charge of Police-stations. Power to bail seems to include both accused and convicted.

Chap. XL, Commissions for examination of witnesses. Before the issue of a commission it must appear that the examination of the witness is necessary for the ends of justice. Power has been given in the case of witnesses resident in a Native State to issue the commission to the Political Agent or other local representative of the British Government. Such interrogatories only are to be forwarded as are thought relevant. A Sub-Magistrate requiring commission must apply to the District Magistrate and not, as formerly, to the Sessions Judge.

Chap. XLI, Special rules of Evidence. In cases of previous conviction evidence of identity is now required.

Chap. XLII, Provisions as to Bonds. Substantially the same

as the superseded Code, except as to procedure on forfeiture which now applies to all bonds.

Chap. XLIII, Disposal of property. Several new provisions are now introduced. When the delivery of a document or other property cannot be conveniently made through the officer of a High or Session Court, such Court may direct a District Magistrate to carry its order into effect. Live stock and perishable articles are exempted from retention. It is also provided that the order in appealable cases is not to be carried out until time for appeal has expired or if appeal is presented until its dismissal. Innocent purchaser of stolen property is to be compensated out of money found on accused when arrested. A Court of confirmation may now also stay order in case of disposal of document or other property or of compensation to innocent purchaser. The destruction of libellous or other matter is now authorized. Property may be conditionally delivered.

Chap. XLIV, Transfer of Criminal cases. Application to the High Court for the transfer of cases is now specifically required to be made by motion supported, except when the applicant is the Advocate-General, by affidavit or affirmation.

Chap. XLV, Irregular Proceedings. Tender of pardon and sale of property are added to the cases in which the proceedings of a Magistrate acting in good faith are not to be set aside merely on the ground of want of power. The proceedings of a Magistrate not having power are now void if he issue a search-warrant for a Telegram or tries an offender summarily. Defects in recording statements or confessions may now be rectified by any Court before whom they are tendered in evidence, whether the error was made in a preliminary enquiry or during a trial. To the irregularities for which a sentence, &c., is not to be reversed are added errors in warrants and irregularities in enquiries or in other proceedings or in trials.

Chap. XLVI, Miscellaneous. Local Government is empowered to appoint a place of imprisonment. Witnesses may now be allowed reasonable expenses when attending enquiries or other proceedings as well as, as formerly, when attending trials. Magis-

trates are now required, on application, to aid in the apprehension of military offenders.

SCHEDULES.—In Schedule II a column (*b*) is inserted to show what offences are compoundable and what not. The offence of voluntarily causing hurt is made one for which the Police may not arrest without warrant. A like change is made as to voluntarily causing hurt on grave or sudden provocation, not intending to hurt any other than the person who gave it. The offence of adultery is now made triable also by a Presidency Magistrate and a Magistrate of the first class. Offences under Section 19 of the Indian Arms Act, 1878, are made bailable. The alteration in the other schedules do not call for specific notice.

Table shewing correspondence of the section-numbers of Act X of 1872, *as amended by Act XI of* 1874, *with those of the New Code, Act X of* 1882.

ACT X OF 1872.	NEW CODE.	ACT X OF 1872.	NEW CODE.
1, para. 1 ...	1, para. 1	4, para. 1, cl. 12	4, para. 1, cl. (*i*)
2 ...	2	13	......
3 ...	1	14	......
2, para. 1 ...	2, 1	15	4, para. 1, cl. (*q*)
2 ...	1, 2	16	(*q*)
3 ...	3, 1	17	(*t*)
4 ...	2	18	(*s*)
[a]5, cl. 1	4, para. 1, cl. (*q*)	19	4, para. 1, cl. (*r*)
2	204, 1	20	(*r*)
3	4, 1, cl. (*r*)	[b]4, para. 2, cl. 1	4, para. 2, cl. 1
4	28	5 ...	6
6 ...	......	6 ...	5
7 ...	2, para. 2	7 ...	5
3 ...	558, 1	8, para. 1 ...	5, and 29, cl. 1
4, para. 1 ...	4, 1	2 ...	29, cls. (*b*) and (*c*)
cl. 1	......	9 ...	26
2	......	10 ...	2, para. 2
3	4, para. 1, cl. (*b*)	11 ...	5
4	(*c*)	12 ..	7, para. 1, cl. 1
5	......	13 ...	2
6	......	14 ...	3
7	4, para. 1, cl. (*d*)	15, para. 1 ...	9, para. 1
8	(*e*)	2 ...	31, 2
9	......	16 ...	9, para. 1
10	4, para. 1, cl. (*g*)		9, 2
11	(*h*)	17 ...	31, 2
			193, 2

[a] See Act XI, 1874, s. 1. [b] See Act XI, 1874, s. 2.

Act X of 1872.	New Code.	Act X of 1872.	New Code.
	9, 2	44, para. 4	528, para. 1
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	193, 3	2	2
[a]2	31, 3	3	......
	380, 1	4	......
19	6	46, paras. 1 & 2	349
20, para. 1	32, para. 1	3	347
2	32, para. 1	[e]*Ill.*	......
3	32, para. 2	47, [f]1	528, para. 1
Expl.	33, para. 1, cl. 1 &	2	407, 2
	para. 2	48	528, 2
21	36, and 37, para. 1	49	12, 1
22	36	49, *Proviso*	......
23	37, and 191, para. 2	50	15, para. 1
24	36	51	2
25	37, & 191, paras. 2	52	16
	and 3	53	16
26	36	54	41
27	37, & 191, paras. 2	55	11
	and 3	56	40
28	36	57	4, cl. (*m*)
29	37		492, para. 1
30	36	58	492, para. 1
31	......	[g]59	495
32	529	60	493
33	532	61	494
34	530	62	422, cl. 1
34, cl. (9)	529, cl. (*h*)	63, para. 1	177
35	10,	2	178, para. 1
[a]36	30, 34, & 380, para. 1	[h]*Proviso*	*Proviso*
37, para. 1	12, para. 1	*Expl.*	......
2	17, para. 1, cl. 1, &	64	526, paras. 1 and 2
	para. 3	[i]*Proviso*	......
3	......	[j]64A	527
38	7, para. 2	65	179
[b]39	7, para. 1, cl. 2, &	66	180
	paras. 3, 8	66, *Ill.* (*a*)	180, *Ill.* (*a*)
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2	2	(*c*)	(*c*)
3	3	(*d*)	......
41	17, 1, cl. 2	67	182
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2	2	(*b*)	......
[c]3	3	(*c*)	181, para. 1
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[a-a] See Act XI, 1874, s. 3. [d] See Act XI, 1874, s. 6. [g] See Act XI, 1874, s. 8.
[b] Ditto ditto, s. 4. [e] Ditto ditto, s. 7. [h] Ditto ditto, s. 9.
[c] Ditto ditto, s. 5. [f] Ditto ditto, s. 6. [i] Repealed by Act XI, 1874, s. 10.
[j] See Act XI, 1874, s. 11.

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83	453, paras. 1 and 3
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86	2, para. 1
87	463
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90	43
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cl. *secondly*	cl. *firstly*
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109	156, para. 1
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5	172, cl. 1
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[a] and [b] See Act XI, 1874, s. 12.

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135	176, para. 1	3	84, para. 1
136	4, para. 1, cl. (o)	169	85
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(d)	(c)	4	87, para. 3
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2	192	2	2
3	......	3	4, first cl. & cls. (e), (f) & (g)
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2	403, *Expln.*	180	48, para. 1, cl. (2)
3	204, para. 1	181	48, *Proviso*
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161	77, para. 1	*Expln.*	3
162	78	194, para. 1	344, paras. 1 & 2
163	43	2	496
164	77, para. 2	*Expln.*	344, *Expln.*
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[a] See Act XI, 1874, s. 13.

Act X of 1872.	New Code.	Act X of 1872.	New Code.
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[a] See Act XI, 1874, s. 14.
[b] Ditto ditto, s. 15.
[c] Ditto ditto, s. 16.
[d] See Act XI, 1874, s. 17.
[e] Ditto ditto, s. 18.

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248	287	274, para. 1	414
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254	282	278, para. 1	421, para. 1
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258	294	[q]280	423
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2	303	4	428, para. 3
3	302	5	......
[c]4	306	283, para. 1	537
[d]5	307, paras. 1 & 2	2	537
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264	344, para. 1	284	423. cl. (*b*)
265	272, *Proviso*	285	430
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268, para. 1	486, paras. 1 & 2	287, para. 1	374
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2, cl[k].2	......	[r]2	436, cl. 1
3	423	[s]*Proviso*	436, *Proviso* (*b*)
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[a] See Act XI, 1874, s. 19.
[b] Ditto ditto, s. 20.
[c], [d] and [e] Ditto ditto, s. 21.
[f], [g], [h], [i] and [j] See Act XI, 1874, s. 22.
[k] Ditto ditto, s. 23.
[l] and [m] Ditto ditto, s. 24.

[n] See Act XI 1874, s. 25.
[o] Ditto ditto, s. 26.
[p] Ditto ditto, s. 27.
[q] Ditto ditto, s. 28.
[r] and [s] Ditto ditto, s. 29.
[t] Ditto ditto, s. 30.

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305 ...	400	[i]4 ...	505
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[a] See Act XI, 1874, s. 31.
[b] Ditto ditto, s. 32.
[c] Ditto ditto, s. 33, para. 1.
[d] See Act XI 1874, s. 33 para. 2
[e], [f] and [g] Ditto ditto, s. 34.
[h], [i] and [j] Ditto ditto, s. 35.

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Act X of 1872.	New Code.
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390	498
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393	496
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395	502
396	514, paras. 1, 2 & 3
397, para. 1	514, para. 1
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[a] See Act XI, 1874, s. 36.

[b] See Act XI, 1874, s. 37.

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417, para. 1 ...	524, para. 1	(*d*) ...	(*f*)
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[a]418 ...	517, para. 1	(*f*) ...	235, *Ill.* (*g*)
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420 ...	518	(*i*) ...	......
421 ...	544	(*j*) ...	235, *Ill.* (*i*)
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[a] and [b] See Act XI, 1874, s. 38.
[c] Ditto ditto, s. 39

[d] See Act XI, 1874, s. 40.
[e] Ditto ditto, s. 41.

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3	477, para. 2
473	487, para. 1
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476	478, para. 2
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478	199
479	199
480	127
481	128
482	129
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484	130
485	132, cl. (*c*)
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2	106, para. 1, last cl., and 118, *Prov. 2nd.*
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500	124, para. 1, and 125
501	126
502, para. 1	514, para. 1
2	2
3	3
4	4
5	1
6	121
7	107, 514
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505	110
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510, para. 1	123, para. 1
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511	124, para. 1
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514, para. 1	514, para. 1
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515, para. 1	112, 114
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[a] See Act XI, 1874, s. 41.
[b] Ditto ditto, s. 42.
[c] See Act XI, 1874, s. 43.
[d] Ditto ditto, s. 44.

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a See Act XI, 1874, s. 45.

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9 ...	178, *Proviso*	25 ...	548
10 ...	......	26 ..	Om., see Secs. 421, 423
11 ...	527	..	
12 ...	447, para. 2, 448	27 ...	422, cl. 2
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16 ...	254	30 ..	439
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18 ...	193, para. 1	32 ...	383, 390

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33	391, para. 2, 394	39	465, para. 2
34, cl. 1	401, para. 1	40	332, *Ill.*
2	4	41	371, para. 1, 548
3	......	42	4, last para.
35	504, para. 1, 505, 507	43	Chapter IX
36	165, para. 4	44	514, para. 4
37	514, para. 5	45	137, para. 2
38	517, para. 1 & *Expln.*		

Table shewing correspondence of the section-numbers of the High Courts Act (*X of* 1875) *with those of the New Code, Act X of* 1882.

Act X of 1875.	New Code.	Act X of 1875.	New Code.
1	......	34	272
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3	4, 266	36	452
4	334	37	452
5	335	38	276
6	5	39	311
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8	226	41	312
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12	229	45	315
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16	230	49	276
17	233	50	316
18	234	51	317
19	235	52	......
20	236	53	277
21	237	54	278
22	238	55	279
23	239	56	279
24	225	57	278
25	534	58	280
26	220	59	286
27	336	60	287
28	271	61	342
29	271	62	289, 290
30	272	63	292
31	340	64	293
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33	274, 276	66	344

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68 ...	365	112 ...	399
69 ...	294	113 ...	368
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90 ...	297	134 ...	195
91 ...	298	135 ...	476
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94 ...	301	138 ...	514, 516
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97 ...	305	141 ...	106
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99 ...	283	143 ...	1
100 ...	308	144 ...	......
101 ...	434	145 ...	194
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104 ...	384, 385	148 ...	491
105 ...	386, 387	149 ...	539
106 ...	545, 546	150 ...	352
107 ...	......	151 ...	345
108 ...	392, 394, 395	152 ...	25
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5 ...	342, 558	54 ...	186
6 ...	4	55 ...	186
7 ...	......	56 ...	75, 77
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21 ...	182	70 ...	63, 496
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23 ...	185	72 ...	499
24 ...	531	73 ...	500
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27 ...	204	76 ...	502
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30 ...	200	79 ...	514
31 ...	537	80 ...	513
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37 ...	205	86 ...	344
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THE

CODE OF CRIMINAL PROCEDURE,

ACT No. X of 1882.[a]

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the Governor-General's assent on the 6th March 1882.

(Corrected up to April 1891.)

An Act to consolidate and amend the law relating to Criminal Procedure.

Whereas it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

CHAPTER I.

1. This Act may be called the Code of Criminal Procedure, 1882; and shall come into force on the first day of January, 1883; Short title. Commencement.

a The Code has been extended with certain modifications to Upper Burma (except the Shan States) by Reg. VII of 1886.

It has also been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

It has been amended in its application to the Andaman and Nicobar Islands by Reg. III of 1876, s. 13, as amended by Reg. I of 1884, s. 3.

The Code has been declared (under the Assam Frontier Tracts Regulation, II of 1880, as extended by Reg. III of 1884) to have ceased to be in force

Local extent.

It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law now in force, or shall apply to—

(a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;

(b) any officer duly authorised to try petty offences in military bázárs at cantonments and stations occupied by the troops of the Presidencies of Fort St. George and Bombay, respectively;

(c) heads of villages in the Presidency of Fort St. George; or

(d) village police-officers in the Presidency of Bombay;

(e) and nothing in sections 174, 175 and 176 shall apply to the police in the town of Madras.

Repeal of enactments.

2. On and from the first day of January, 1883, the enactments mentioned in the first schedule shall be repealed to the extent specified in the third column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

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in the Nágá Hills, the Dibrugarh Frontier Tract, and the North Cachar Hills—see Assam Gazette, 10th May, 1884, Pt. II, p. 212; in the Gáro Hills District and the Khási and Jáintiá Hills District—see Assam Gazette, 22nd November, 1884, Pt. I, p. 670, and in the Mikri Hills Tract—see Assam Gazette, 29th November, 1884, Pt. II, p. 705.

References to the Code in other enactments are to be read as if made to it as amended by Act III of 1884—see s. 14 (2) of that Act.

Notifications, &c., under repealed Acts.

All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the 1st day of January, 1883, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

Reference to Code of Criminal Procedure and other repealed enactments.

3. In every enactment passed before this Code comes into force, in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure Act, No. XXV of 1861, or Act No. X of 1872, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

Expressions in former Acts.

In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate", "Subordinate Magistrate, first class", and "Subordinate Magistrate, second class", shall respectively be deemed to mean "Magistrate of the first class", "Magistrate of the second class" and "Magistrate of the third class"; the expression "Magistrate of a division of a district" shall be deemed to mean "Subdivisional Magistrate"; the expression "Magistrate of the district" shall be deemed to mean "District Magistrate", and the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate".

Interpretation-clause.

4. In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

"Complaint":

(a) "Complaint" means the allegation made orally or in writing to a Magistrate, with a view

to his taking action under this Code, that some person, whether known or unknown, has committed an offence; but does not include the report of a police-officer:

"Investigation": (b) "Investigation" includes all the proceedings under this Code for the collection of evidence conducted by the police or by any person (other than a Magistrate or police-officer) who is authorised by a Magistrate in this behalf:

"Inquiry": (c) "Inquiry" includes every inquiry conducted under this Code by a Magistrate or Court:

"Judicial proceeding": (d) "Judicial proceeding" means any proceeding in the course of which evidence is or may be legally taken:

"Writing" and "written": (e) "Writing" and "written" include "printing", "lithography", "photography", "engraving" and every other mode in which words or figures can be expressed on paper or on any substance:

"Subdivision": (f) "Subdivision" means a subdivision made under this Code of a district:

"Province": (g) "Province" means the territories for the time being under the administration of any Local Government:

"Presidency-town": (h) "Presidency-town" means the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras or Bombay:

"High Court"[a]: (i) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judica-

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[a] For meaning of "High Court" in Upper Burma, see Reg. VII of 1886, Sch., s. I.

ture at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Recorder of Rangoon:

In other cases "High Court" means the highest Court of criminal appeal or revision for any local area; or, where no such Court is established under any law for the time being in force, such officer as the Governor-General may appoint in this behalf:

"Chief Justice":

(j) "Chief Justice" includes also the senior Judge of the Chief Court of the Punjab, and the Recorder of Rangoon.—[*Act No. XI of* 1889, 2*nd Sch.*]

"Advocate-General":

(k) "Advocate-General" includes also a Government Advocate, or, where there is no Advocate-General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf:

"Clerk of the Crown":

(l) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown:

"Public Prosecutor":

(m) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction:

"Pleader":

(n) "Pleader", used with reference to any proceeding in any Court, means a pleader authorised under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised, and (2) any mukhtár or other person appointed with

the permission of the Court to act in such proceeding :

"Police-station":— (o) "Police-station" means any post declared, generally or specially, by the Local Government to be a police-station ~~for the purposes of this Code~~, and includes any local area specified by the Local Government in this behalf ; and

"Officer in charge of a police-station": "officer in charge of a police-station[a]" includes, when the officer in charge of the police-station is absent [b]from the station-house[b] or unable from illness to perform his duties, the police officer [c]present at the station-house[c] who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police-officer so present :

"Offence": (p) "Offence" means any act or omission made punishable by any law for the time being in force :

"Cognizable offence": "Cognizable case": (q) "Cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer, within or without the presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant :

"Non-Cognizable offence" "Non-cognizable case." "Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without the presidency-towns, may not arrest without warrant :

"Bailable offence": "Bailable offence" means an offence shewn as bailable in the second schedule, or which is

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a For meaning of "officer in charge of a police-station" in Upper Burma, see Reg. VII of 1886, Sch., s. 11.

b-b, c-c These words in s. 4, cl. (o), have been substituted by Act V of 1887, s. I.

made bailable by any other law for the time being in force; "and non-bailable offence" means any other offence: "Non-bailable offence":

(s) "Warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months: "Warrant-case":

(t) "Summons-case" means a case relating to an offence not so punishable: "Summons-case":

(u) "European British subject" means— "European British subject":

(1) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal:

(2) any child or grandchild of any such person by legitimate descent:

(v) "Chapter" means a chapter of this Code; and "Schedule" means a schedule hereto annexed: "Chapter" "Schedule":

(w) "Place" includes also a house, building, tent and vessel. "Place."

Words which refer to acts done extend also to illegal omissions; and Words referring to acts.

all words and expressions used herein and defined in the Indian Penal Code, (XLV of 1860,) and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code. Words to have same meaning as in Penal Code.

5. All offences under the Indian Penal Code shall be inquired into and tried according to the provisions hereinafter contained; and all offences under any Trial of offences under Penal Code.

Trial of offences against other laws.

other law shall be inquired into and tried according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of inquiring into or trying such offences.

investigated

investigating

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely:—

I.—Courts of Session:

II.—Courts of Presidency Magistrates:

III.—Courts of Magistrates of the first class:

IV.—Courts of Magistrates of the second class:

V.—Courts of Magistrates of the third class.

B.—Territorial Divisions.

Sessions Divisions.

7.[a] Every province (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions:

Districts.

and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Power to alter divisions and districts

The Local Government may alter the limits, or, with the previous sanction of the Governor-General in Council, the number, of such divisions and districts.

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[a] As to Courts of session in Upper Burma, see Reg. VII of 1886, Sch., s. III.

The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered. *Existing divisions and districts maintained till altered.*

Every presidency-town shall, for the purposes of this Code, be deemed to be a district. *Presidency-towns to be deemed districts.*

8. The Local Government may divide any district outside the presidency-towns into subdivisions, or make any portion of any such district a subdivision, and may alter the limits of any subdivision. *Power to divide districts into subdivisions.*

All existing subdivisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code. *Existing subdivisions maintained.*

C.—Courts and offices outside the Presidency-towns.

9.[a] The Local Government shall establish a Court of Session for every sessions division, and appoint a Judge of such Court. *Court of Session.*

It may also appoint Additional Sessions Judges, ~~Joint Sessions Judges a~~nd Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. In every district outside the presidency-towns the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate. *District Magistrate.*

Addl District Magte 4 2 9 for Bma

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Local Government, exercise all the pow- *Officers temporarily succeeding to vacancies in office of District Magistrate.*

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a As to Courts of session in Upper Burma, see Reg. VII of 1886, Sch., s. III.

ers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

Local limits of their jurisdiction.

12. The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns; and the Local Government, or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

Power to put Magistrate in charge of subdivision.

13. The Local Government may place any Magistrate of the first or second class in charge of a subdivision, and relieve him of the charge as occasion requires.

Such Magistrates shall be called Subdivisional Magistrates.

Delegation of powers to District Magistrate.

The Local Government may delegate its powers under this section to the District Magistrate.

Special Magistrates.

14. The Local Government may confer upon any person all or any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, in respect to particular cases or to a particular class, or particular classes of cases, or in regard to cases generally, in any local area outside the presidency-towns.

Such Magistrates shall be called Special Magistrates.

With the previous sanction of the Governor-General in Council, the Local Government may delegate,

with such limitations as it thinks fit, to any officer under its control the power conferred by the first paragraph of this section.

No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be so conferred except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.[a]

15. The Local Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit. Benches of Magistrates.

Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class. Powers exerciseable by Bench in absence of special direction.

16. The Local Government may, or, subject to Power to frame rules for guidance of Benches.

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[a] Notwithstanding anything contained in s. 14, any police-officer in Assam, not below the grade of Assistant District Superintendent, may be invested with all or any of the powers conferred or conferrible on a Magistrate of the first, second or third class in respect to non-cognizable cases—see Reg. II of 1883, s. 4.

As to conferment of magisterial powers on police-officers in Upper Burma, see Reg. VII of 1886, Sch., s. IV.

the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

(*a*) the classes of cases to be tried ;

(*b*) the times and places of sitting ;

(*c*) the constitution of the Bench for conducting trials ;

(*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Magistrates and Benches to District Magistrate ;

17. All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Magistrates and Benches ; and

to Subdivisional Magistrate.

every Magistrate (other than a Subdivisional Magistrate) and every Bench exercising powers in a Subdivision shall also be subordinate to the Subdivisional Magistrate, subject, however, to the general control of the District Magistrate.

Subordination of Assistant Sessions Judges to Sessions Judge.

All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

Appointment

18. The Local Government shall, from time to time,

...T may delegate powers to hold S.17 or
D.M. when
he is un
avoidably
absent
for the disposal
of an urgent application -

time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency-towns, and shall appoint one of such persons to be Chief Magistrate for each such town. *of Presidency Magistrates.*

Any two or more of such persons may (subject to the rules made by the Chief Magistrate under the power hereinafter conferred) sit together as a Bench.

Local limits of their jurisdiction.

19. Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Bombay Court of Petty Sessions.

20. Every Presidency Magistrate in the town of Bombay shall exercise all jurisdiction which, under any law in force immediately before the first day of April, 1877, was exercised in that town by the Court of Petty Sessions:

Provided that appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

Chief Magistrate.

21. Every Chief Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

(*a*) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(*b*) the times and places at which Benches of Magistrates shall sit;

(*c*) the constitution of such Benches; and

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session.

E.—Justices of the Peace.

Justices of the Peace for the mufassal.

22. The Governor-General in Council, so far as regards the whole or any part of British India outside the presidency-towns,

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

Justices of the Peace for the presidency-towns.

23. ~~The Governor-General in Council or the Local Government, so far as regards the town of Calcutta,~~

~~and~~ the Local Government, so far as regards the towns of Madras and Bombay,

may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom such ~~Governor-General in Council or~~ Local Government (as the case may be) thinks fit.

Present Justices of the Peace.

24. Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor-General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. In virtue of their respective offices, the Governor-General, the Ordinary Members of the Council of the Governor-General, the Judges of the High Courts and the Recorder of Rangoon are Justices of the Peace within and for the whole of British India, [a]Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving,[a] and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates. *Ex officio* Justices of the Peace.

F.—Suspension and Removal.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government : Suspension and removal of Judges and Magistrates.

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor-General in Council only shall not be suspended or removed from office by any other authority.

27. The Governor-General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it. Suspension and removal of Justices of the Peace.

CHAPTER III.

Powers of Courts.

A.—Description of Offences cognizable by each Court.

28. Subject to the other provisions of this Code, any offence under the Indian Penal Code (XLV of 1860) may be tried (a) by the High Court (b) or Court of Session or by any other Court by which such offence Offences under Penal Code.

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a-a These words in s. 25 have been inserted by Act III of 1884, s. 1.

is shown in the eighth column of the second schedule to be triable. Subject to Sec 447

Offences under other laws.

29. Any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code:

Provided that—

(*a*) no Magistrate of the first class shall try any such offence which is punishable with imprisonment for a term which may exceed seven years;

(*b*) no Magistrate of the second class shall try any such offence which is punishable with imprisonment for a term which may extend to three years; and

(*c*) no Magistrate of the third class shall try any such offence which is punishable with imprisonment for a term which may extend to one year.

Offences not punishable with death.

30. In the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg and Assam, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

Sentences which High Courts and

31. A High Court may pass any sentence authorised by law.

A Sessions Judge, Additional Sessions Judge ~~or Joint Sessions Judge~~ may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

Sessions Judges may pass.

An Assistant Sessions Judge may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years; but[a] any sentence of imprisonment for a term exceeding four years and any sentence of transportation[a] passed by an Assistant Sessions Judge shall be subject to confirmation by the Sessions Judge.

32. The Courts of Magistrate may pass the following sentences, namely :—

Sentences which Magistrates may pass.

(*a*) Courts of Presidency Magistrates and of Magistrates of the first class :	Imprisonment for a term not exceeding two years, including such solitary confinement as is authorised by law; Fine not exceeding one thousand rupees; Whipping.[b]
(*b*) Courts of Magistrates of the second class :	Imprisonment for a term not exceeding six months, including such solitary confinement as is authorised by law; Fine not exceeding two hundred rupees; Whipping.

a-a These words in s. 31 have been substituted by Act X of 1886, s. 1.

b As to powers of Magistrates in Upper Burma to pass sentences of whipping, see Reg. VII of 1886, Sch., s. V, but as to European British subjects, see s. XXII, *ib.*

(*c*) Courts of Magistrates of the third class.	Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees.

The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorised by law to pass.

No Court of any Magistrate of the second class shall pass a sentence of whipping unless he is specially empowered in this behalf by the Local Government.

Power of Magistrates to sentence to imprisonment in default of fine.

33. The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law in case of such default:

Provided that the term is not in excess of the Magistrate's powers under this Code:

Proviso as to certain cases.

Provided also that in no case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

Higher powers of certain District magistrates.

34.[a] The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years; but

[a] S. 34 has been substituted by Act X of 1886, s. 2.

any sentence of imprisonment for a term exceeding four[b] years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge.[b]

Sentence in cases of conviction of several offences at one trial.

35. When a person is convicted, at one trial, of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct. unless the Court directs such punishments shall run concurrently

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided as follows:—

Maximum term of punishment.

(*a*) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

For the purpose of confirmation or appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

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b-b In places where the Punjab Frontier Crimes Regulation, 1887, is in force a sentence passed by a District Magistrate or Additional District Magistrate in exercise of the power to try as a Magistrate any offence not punishable with death is not subject to confirmation by the Sessions Judge —see Reg. IV of 1887, s. 7. (1).

C.—*Ordinary and Additional Powers.*

Ordinary powers of Magistrates.

36.[a] All District Magistrates, Subdivisional Magistrates and Magistrates of the first, second and third classes have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers".

Additional powers conferrible on Magistrates.

37.[a] In addition to his ordinary powers, any subdivisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

Control of District Magistrate's investing power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—*Conferment, Continuance and Cancellation of Powers.*

Mode of confering powers.

39. In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

Every such order shall take effect from the date on which it is communicated to the person so empowered.

Continuance of powers of officers transferred.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

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a-a As to powers of Magistrates in Upper Burma, see Reg. VII of 1886, Sch., s. VI; but as to European British Subjects, see s. XXII, *ib.*

Powers may be cancelled.

41. The Local Government may withdraw any powers conferred under this Code on any person by it or by any officer subordinate to it.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrates and police.

42. Every person is bound to assist a Magistrate or police-officer reasonably demanding his aid, whether within or without the presidency-towns,—

(*a*) in the taking of any other person whom such Magistrate or police-officer is authorised to arrest;

(*b*) in the prevention of a breach of the peace, or of any injury attempted to be committed to any railway, canal telegraph or public property; or

(*c*) in the suppression of a riot or an affray.

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under the following sections of the Indian Penal Code (XLV of 1860) namely, 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399,

See amendment Act III of 94

402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

Village-headmen, landholders and others bound to report certain matters.

45.[a] Every village-headman, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman,

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[a] In Upper Burma the following has been substituted for s. 45 by Reg. XIV of 1887, s. 4:—

"45. A headman appointed under the Upper Burma Village Regulation, 1877, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting—

Village-headman bound to report certain matters.

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his village;

(*b*) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or attempt or intention to commit, within his village any of the following effences, namely:—

(i) murder,

(ii) culpable homicide not amounting to murder,

(iii) dacoity,

(iv) robbery,

(v) offence against the Indian Arms Act, 1878, and

(vi) any other offence respecting which the Deputy Commissioner by general or special order, made with the previous sanction of the Commissioner, directs him to communicate information,

(*d*) the occurrence in his village of any sudden or unnatural death or of any death under suspicious circumstances.

Explanation.—In this section 'village' has the meaning assigned to that word in the Upper Burma Village Regulation, 1887."

watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, any non-bailable offence in or near such village;

(*d*) the occurrence therein of any sudden or unnatural death or of any death under suspicious circumstances.

EXPLANATION.—In this section "village" includes village-lands.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action. Arrest how made.

If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest. Resisting endeavour to arrest.

Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.[a]

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a In places where the Punjab Frontier Crimes Regulation, 1887, is in force, s. 46 is to be read as if the following were added to it, namely:—

"But this section gives a right to cause the death of a person against

Search of place entered by person sought to be arrested.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Procedure where ingress not obtainable.

48. If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and

in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Breaking open zanáná.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or police-officer shall, before entering such apartment, give notice to

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whom those portions of the Punjab Frontier Crimes Regulation, 1887, which are not of general application may be enforced—

(*a*) if he is committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as to afford reasonable ground for believing that he intends to use arms to effect his purpose; or

(*b*) if a hue-and-cry has been raised against him of his having been concerned in any such offence as is specified in the last foregoing paragraph of this section, or of his committing or attempting to commit an offence or resisting or evading arrest, in such circumstances as are referred to in clause (*a*) of this paragraph;" see Reg. IV of 1887, s. 37 (2).

such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

Mode of searching women.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Power to seize offensive weapons.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person

making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

When police may arrest without warrant.

54. Any police-officer may, without an order from a Magistrate and without a warrant, arrest—

first—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned ;

secondly—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

thirdly—any person who has been proclaimed as an offender either under this Code or by order of the Local Government ;

fourthly—any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing ;

fifthly—any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ; and

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy [a]or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service.[a]

This section applies to the police in the towns of Calcutta and Bombay.

[a-a] These words in s. 54 have been inserted by Act XIV of 1887, s. 78.

.. **55.**[a] Any officer in charge of a police-station may, in like manner, arrest or cause to be arrested— Arrest of vagabonds' habitual robbers, &c,

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

[b] This section applies to the police in the towns of Calcutta and Bombay.[b]

56. When any officer in charge of a police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence for which the arrest is to be made. Procedure when police-officer deputes subordinate to arrest without Warrant.

[b] This section applies to the police in the towns of Calcutta and Bombay.[b]

57.[c] When any person in the presence of a police- Refusal to give name and residence.

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[a] In Upper Burma the powers conferred on an officer in charge of a police-station by s. 55 may be exercised by any police-officer—see Reg. VII of 1886, Sch., s. VII.

[b-b] These words in ss. 55 and 56 have been added by Act, X of 1886, s. 3.

[c] As to power of detention by police in Upper Burma—see Reg. VII of 1886, Sch., s. VIII.

officer commits or is accused of committing a non-cognizable offence, and refuses on demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless, before the expiration of that time, his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

Pursuit of offenders into other jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest under this chapter, pursue such person into any place in British India.

Arrest by private persons.

59. Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;

Procedure on such arrest.

and shall, without unnecessary delay, make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person to the nearest police-station.

If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no reason to believe that he has committed any offence, he shall be at once discharged.

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested to be taken before Magistrate or officer in charge of police-station.

61 [a] No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Person arrested not to be detained more than twenty-four hours.

62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Subdivisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Police to report apprehensions.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Discharge of person apprehended.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

Offence committed in Magistrate's presence.

65. Any Magistrate may, at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Arrest by or in presence of Magistrate.

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a As to power of detention by police in Upper Burma, see Reg. VII of 1886, Sch., s. VIII.

Power, on escape, to pursue and retake.

66 If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

Form of summons.

68. Every summons issued by a Court under this Code shall be in writing in duplicate signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Summons by whom served.

Such summons shall be served by a police-officer, or, subject to such rules consistent with this Code as the Local Government may prescribe in this behalf, by an officer of the Court issuing it.

This section applies to the police in the towns of Calcutta and Bombay.

Summons how served.

69. The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Service when person summoned cannot be found.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him ;

and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when receipt cannot be obtained.

71. If the signature mentioned in sections 69 and 70 cannot by the exercise of due diligence be obtained, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Government or of Railway Company.

72. Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court with the endorsement required by that section.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases, and when serving officer not present.

74. When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

Form of warrant of arrest.

75. Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken

76. Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person execute a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

The endorsement shall state—

(*a*) the number of sureties;

(*b*) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound; and

(*c*) the time at which he is to attend before the Court.

Recognizance to be forwarded.

Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed.

77. A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer

is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them. **Warrant to several persons.**

78. A District Magistrate or Subdivisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or subdivision for the arrest of any escaped convict, proclaimed offender or person who has been accused of a nonbailable offence, and who has eluded pursuit. **Warrant may be directed to landholders, &c.**

Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued is in, or enters on, his land or farm, or the land under his charge.

When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed. **Warrant directed to police-officer.**

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant. **Notification of substance of warrant.**

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person. **Person arrested to be brought before Court without delay.**

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in British India.

Warrant forwarded to Magistrate for execution outside jurisdiction.

83. When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or Commissioner of Police within the local limits of whose jurisdiction it is to be executed.

The Magistrate or Commissioner to whom such warrant is so forwarded shall endorse his name thereon, and, if practicable, cause it to be executed within the local limits of his jurisdiction.

Warrant directed to police-officer for execution outside jurisdiction.

84. When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

This section applies to the police in the towns of Calcutta and Bombay.

85. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest, or is nearer than the Magistrate or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner.

Procedure on arrest of person against whom warrant issued.

86. Such Magistrate or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Procedure by Magistrate before whom person arrested is brought.

Provided that if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

87. If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

Proclamation for person absconding.

The proclamation shall be published as follows :—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides, or to some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the court-house.

A statement by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of property of person absconding.

88. The Court may, after issuing a proclamation under section 87, order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district, when endorsed by the District Magistrate [a]or Chief Presidency Magistrate [a]within whose district such property is situate.

If the property ordered to be attached be debts or other moveable property, the attachment under this section shall be made—

(*a*) by seizure; or

(*b*) by the appointment of a receiver; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(*d*) by all or any two of such methods, as the Court thinks fit.

If the property ordered to be attached be immove-

a-a The words in s. 88 have been inserted by Act X of 1886, s. 4.

able, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(*e*) by taking possession; or

(*f*) by the appointment of a receiver; or

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(*h*) by all or any two of such methods, as the Court thinks fit.

The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure (XIV of 1882.)

If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under the last paragraph of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been

Restoration of attached property.

sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other rules regarding Processes.

Issue of warrant in lieu of, or in addition to, summons.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant is present in such Court, such officer may require such person to execute a bond with or without sureties for his appearance in such Court.

Arrest on breach of bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions in this Chapter generally applicable to summonses and warrants of arrest.

93. The provisions contained in this Chapter relating to a summons and warrant and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

94. Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station, considers, that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order. Summons to produce document or other thing.

Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, post-card, telegram or other document in the custody or the Postal of Telegraph authorities.

95. If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Court, such Magistrate or Court may require the postal or Telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court directs. Procedure as to letters and telegrams.

If any such document is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

When search-warrant may be issued.

96. Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, paragraph 1, has been or might be addressed will not or would not produce the document or other thing as required by such summons or requisition,

or where such document or other thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed may search or inspect in accordance therewith and the provisions hereinafter contained.

Nothing herein contained shall authorise any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document in the custody of the postal or Telegraph authorities.

Power to restrict warrant.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

98. If a District Magistrate, Subdivisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, Search of house suspected to contain stolen property, forged documents, &c.

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

he may by his warrant authorise any police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale, or manufacture or keeping of any such property, documents, seals stamps, coins, instruments or materials, knowing or having

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reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, (I of 1889) or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878, (VIII of 1878.)

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.—[*Act I of* 1889.]

Disposal of things found in search beyond jurisdiction.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such

Magistrate; and unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

C.—Discovery of persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Subdivisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Search for persons wrongfully confined.

D.—General Provisions relating to Searches.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98 or section 100.

Direction, &c., of search-warrants.

102. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

103. Before making a search under this chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

Search to be made in presence of witnesses.

The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant of place searched may attend.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

E.—Miscellaneous.

Power to impound document, &c., produced.

104. Any Court may, if it thinks fit, impound any document or other thing produced before it under this Code.

Magistrate may direct search in his presence.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.[a]

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

Security for keeping the peace on conviction

106. Whenever any person accused of rioting, assault or other breach of the peace, or of abetting

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[a] In places where the Punjab Frontier Crimes Regulation, 1887, is in force ss. 39 to 45 (both inclusive) of that Regulation are to be read with and construed as part of this Chapter—see Reg. IV of 1887, s. 46.

the same, or of assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation by threatening injury to person or property, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

B.—Security for keeping the Peace in other cases, and Security for Good Behaviour.

Security for keeping the peace in other cases.

107. Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class receives information that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, within the local limits of such Magistrate's jurisdiction, or that there is within such limits a person who is likely to commit a breach of the peace or do any wrongful act as aforesaid in any place beyond such limits, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

Procedure of Magistrate, &c., not empowered to act under section 107.

108. When any Magistrate not empowered to proceed under section 107, or a Court of Session or High Court, has reason to believe that any person is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by detaining such person in custody, such Magistrate or Court may issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case under section 107.

A Magistrate before whom a person is sent under this section may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

Security for good behaviour from vagrants and suspected persons.

109. Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing an offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding six months as the Magistrate thinks fit to fix.

Security for

110. Whenever a Presidency Magistrate, District

Magistrate, [a]or Subdivisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government[a] receives information that any person within the local limits of his jurisdiction is an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing the same to have been stolen, or that he habitually commits extortion, or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury,

good behaviour from habitual offenders.

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the Magistrate thinks fit to fix.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874, (IX of 1874.)

Proviso as to European vagrants.

112. When a Magistrate acting under section 107, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Order to be made.

113. If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

Procedure in respect of person present in Court.

114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant

Summons or warrant in case of person not so present.

a-a These words in s. 110 have been substituted by Act X of 1886, s. 5.

directing the officer in whose custody he is to bring him before the Court:

Provided that, whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

Copy of order under section 112 to accompany summons or warrant.

115. Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

Power to dispense with personal attendance.

116. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Inquiry as to truth of information.

117. When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which he has acted, and to take such further evidence as may appear necessary.

Such inquiry shall be made, as nearly as may be practicable, where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials in summons-cases; and, where the order requires security for good behaviour, in the

manner hereinafter prescribed for conducting trials in warrant-cases, except that no charge need be framed.

For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

Order to give security.

118. If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly :

Provided—

first—that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than that specified in the order made under section 112 :

secondly—that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive :

thirdly—that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

Discharge of person informed against.

119. If, on an enquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all cases subsequent to Order to furnish Security.

Commencement of period for which security is required.

120. If any person in respect of whom an order requiring security is made under section 106 or section 118 is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

In other cases such period shall commence on the date of such order.

Contents of bond.

121. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties.

122. A Magistrate may refuse to accept any surety for good behaviour offered under this chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person.

Imprisonment in default of security.

123. If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison, until such period expires or until within such period he gives the security to the Court or Magistrate which or who made the order requiring it, or to the officer in charge of the jail in which the person so ordered is detained.

Proceedings when to be laid before High Court or Court of

When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing

him to be detained in prison pending the orders of the Court of Session, or, if such Magistrate be a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court. Session.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

Imprisonment for failure to give security for keeping the peace shall be simple. Kind of imprisonment.

Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

124. Whenever the district Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged. Power to release persons imprisoned for failing to give security.

Whenever the district Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Court of Session or High Court may be released without such hazard, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

125. The District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any Power of District

Magistrate to cancel any bond for keeping the peace.

bond for keeping the peace executed under this chapter by order of any Court in his district not superior to his Court.

Discharge of sureties.

126. Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel any bond executed under this chapter within the local limits of his jurisdiction.

On such application being made the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

Assembly to disperse on command of Magistrate or police-officer.

127. Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

This section applies to the police in the towns of Calcutta and Bombay.

Use of civil force to

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so

commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869, (XX of 1869) and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law. disperse.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force. Use of military force.

130. When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law. Duty of officer commanding troops required by Magistrate to disperse assembly.

Every such officer shall obey such requisition in such manner as he thinks fit; but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. When the public security is manifestly en- Power of.

commissioned military officers to disperse assembly.

dangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this chapter.

132. No prosecution against any Magistrate, military officer, police-officer, soldier or volunteer for any act purporting to be done under this chapter shall be instituted in any Criminal Court, except with the sanction of the Governor-General in Council; and

(*a*) no Magistrate or police-officer acting under this chapter in good faith,

(*b*) no officer acting under section 131 in good faith,

(*c*) no person doing any act in good faith in compliance with a requisition under section 128 or section 130, and

(*d*) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which under military law he was bound to obey,

shall be deemed to have thereby committed an offence.

CHAPTER X.[a]

PUBLIC NUISANCES.

Conditional order for removal of nuisance.

133. Whenever a District Magistrate, a Subdivisional Magistrate or, when empowered by the Local

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[a] Chap. X has been extended to the City of Madras, by Mad. Act VII of 1884, s. 29.

Government in this behalf, a Magistrate of the first class, considers, on receiving a report or other information, and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,—

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to suppress or remove such trade or occupation; or

to remove such goods or merchandise; or

to prevent or stop the construction of such building; or

to remove, repair or support it; or

to alter the disposal of such substance or ;

to fence such tank, well or excavation, as the case may be ; or

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

EXPLANATION.—A "public place" includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary and recreative purposes.

Service or notification of order.

134. The order shall, if practicable, be served on the person against whom it is made in manner herein provided for service of a summons.

If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey.

135. The person against whom such order is made shall—

(*a*) perform, within the time specified in the order, the act directed thereby ; or

or show cause or claim jury.

(*b*) appear in accordance with such order, and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

Consequence of his failing to do so.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188

of the Indian Penal Code (XLV of 1860) and the order shall be made absolute.

137. If he appears and shows cause against the order, the Magistrate shall take evidence in the matter.

Procedure where he appears to show cause.

If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

If the Magistrate is not so satisfied, the order shall be made absolute.

138. On receiving an application under section 135 to appoint a jury, the Magistrate shall—

Procedure where he claims jury.

(*a*) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(*b*) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(*c*) fix a time within which they are to return their verdict.

139. If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

Procedure where jury finds Magistrate's order to be reasonable.

In other cases, no further proceedings shall be taken.

140. When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice of the same to the person against

Procedure on order being made absolute.

whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code (XLV of 1860.)

Consequences of disobedience to order.

If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorise its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

No suit shall lie in respect of anything done in good faith under this section.

Procedure on failure to appoint jury or omission to return verdict.

141. If the applicant by neglect or otherwise prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

Injunction pending inquiry.

142. If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury.

In default of such person forthwith obeying such

injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. A District Magistrate or Subdivisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code (XLV of 1860) or any special or local law. **Magistrate may prohibit repetition or continuance of public nuisances.**

CHAPTER XI.[a]

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE.

144. In cases where, in the opinion of a District Magistrate, a Subdivisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable, **Power to issue order absolute at once in urgent cases of nuisance.**

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession, or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

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[a] Chapter XI has been extended to the city of Madras by Mad. Act II of 1884, s. 29.

An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte.*

An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him or by his predecessor in office.

No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.

CHAPTER XII.

Disputes as to Immoveable Property.

Procedure where dispute concerning land, &c., is likely to cause breach of peace.

145. Whenever a District Magistrate, Subdivisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any tangible immoveable property or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court, in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties is then in such possession of the said subject. Inquiry as to possession.

If the Magistrate decides that one of the parties is then in such possession of the said subject, he shall issue an order declaring such party to be entitled to retain possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction. Party in possession to retain possession until legally evicted.

Nothing in this section shall preclude any party so required to attend from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed.

146. If the Magistrate decides that none of the parties is then in such possession, or is unable to satisfy himself as to which of them is then in such possession of the subject of dispute, he may attach it until a competent Civil Court has determined the rights of the parties thereto, or the person entitled to possession thereof. Power to attach subject of dispute.

147. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any tangible immoveable property situate within the local limits of his jurisdiction, he may inquire into the matter; and may, if it appears to him that such right exists, make an order permitting such thing to be done, or directing that such thing shall not be done, as the case may be, Disputes concerning easements, &c.

until the person objecting to such thing being done, or claiming that such thing may be done, obtains the decision of a competent Civil Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be :

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exerciseable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry; or, where the right is exerciseable only at particular seasons, unless the right has been exercised during the season next before such institution.

Local inquiry.

148. Whenever a local inquiry is necessary for the purposes of this chapter, any District Magistrate or Subdivisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions consistent with the law for the time being in force as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

The report of the person so deputed may be read as evidence in the case.

Orders as to costs.

When any costs have been incurred by any party to a proceeding under this chapter for witnesses' or pleaders' fees, or both, the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. All costs so directed to be paid may be recovered as if they were fines.

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent the commission of any cognizable offence. Police to prevent cognizable offences.

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence. Information of design to commit such offences.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented. Arrest to prevent such offences.

152. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark, or buoy or other mark used for navigation. Prevention of injury to public property.

153. Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures, or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false. Inspection of weights and measures.

If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

Information in cognizable cases.

154. Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

Information in non-cognizable cases.

155. When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

Investigation into non-cognizable cases.

No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

156. Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

Investigation into cognizable cases.

No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

157. If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate, empowered to take cognizance of such offence upon a police report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender:

Procedure where cognizable offence suspected.

Provided as follows:—

(*a*) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

Where local investigation dispensed with.

(*b*) if it appear to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

Where police-officer in charge sees no sufficient ground for investigation.

In each of the cases mentioned in clauses (*a*) and (*b*), the officer in charge of the police-station shall

state in his said report his reasons for not fully complying with the requirements of the first paragraph of this section.

Reports under section 157 how submitted.

158. Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to hold investigation or preliminary inquiry.

159. Such Magistrate, on receiving such report, may, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold an investigation or preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police-officer's power to require attendance of witnesses.

160. Any police-officer making an investigation under this chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Examination of witnesses by police.

161. Any police-officer making an investigation under this chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer truly all question relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162.[a] No statement, other than a dying declaration, made by any person to a police-officer in the course of an investigation under this chapter shall, if reduced to writing, be signed by the person making it, or shall[b] be used as evidence against the accused.

Statements to police not to be signed or admitted in evidence.

Nothing in this section shall be deemed to affect the provisions of section 27 of the Indian Evidence Act, 1872, (I of 1872.)

163. No police-officer or person in authority shall offer or make, or cause to be offered or made, any such inducement, thereat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

No inducement to be offered.

But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this chapter any statement which he may be disposed to make of his own free will.

164. Any Magistrate not being a police-officer may record any statement or confession made to him in the course of an investigation under this chapter or at any time afterwards before the commencement of the inquiry or trial.

Power to record statements and confessions.

Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is in his opinion best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and

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a The first para. of s. 162 does not apply to a statement made to a police-officer in Upper Burma who is a Magistrate—see Reg. VII of 1886, Sch., s. IX.

b The word "shall" in s. 162 has been inserted by Act X of 1886, s. 6.

when he records any confession he shall make a memorandum at the foot of such record to the following effect :—

"I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

"(*Signed*) A. B.,
Magistrate."

Search by police-officer.

165. Whenever an officer in charge of a police station, or a police-officer making an investigation, considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or other thing as directed in the summons or order, or when such document or other thing is not known to be in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

Such officer shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or other thing for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

The provisions of this Code as to search-warrants shall, so far as may be, apply to a search made under this section.

166. An officer in charge of a police-station may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station. When officer in charge of police-station may require another to issue search-warrant.

Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

167. Whenever it appears that any investigation under this chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation is well-founded, the officer in charge of the police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate. Procedure when investigation cannot be completed in twenty-four hours.

The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

If such order be given by a Magistrate other than

the District Magistrate or Subdivisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

Report of investigation by subordinate police-officer.

168. When any subordinate police-officer has made any investigation under this chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Release of accused when evidence deficient.

169. If, upon an investigation under this chapter, it appears to the officer in charge of the police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial.

Case to be sent to Magistrate when evidence is sufficient.

170. If, upon an investigation under this chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial; or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed

When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to pro-

duce before him, and shall require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

If the Court of the District Magistrate or Sub-divisional Magistrate be mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference be given to such complainant or persons.

The day fixed under this section shall be the day whereon the accused person is to appear if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with its report.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be required to accompany police officer.

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Complainants and witnesses not to be subjected to restraint.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Recusant complainant or witness may be forwarded in custody.

Diary of proceedings in investigation.

172. Every police-officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

Any criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the police-officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Indian Evidence Act, 1872, (I of 1872), section 161 or section 145, as the case may be, shall apply.

Report of police-officer.

173. Every investigation under this chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall forward to a Magistrate empowered to take cognizance of the offence on a police report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

[a] Where a superior officer of police has been appointed under section 158, the report shall, in any

[a] The second para. of s. 173 has been substituted by Act X of 1886, s. 7.

cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.—[*Act No. X of* 1886, *s.* 7.]

Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

174.* Every officer in charge of a police-station, on receiving information that a person— Police to inquire and report on suicide, &c.

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Subdivisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner,

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* This and the two following sections have in their applicability to the area comprised within the local limits of the ordinary original civil jurisdiction of the Madras High Court been modified by Act V of 1889, Sec. 4 (2). The amended sections are given at page 323.

or by what weapon or instrument (if any), such marks appear to have been inflicted.

The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Subdivisional Magistrate.

When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

The following Magistrates are empowered to hold inquests; namely, any District Magistrate or Subdivisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

Power to summon persons.

175. An officer in charge of a police-station may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

176. When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the police-officer; and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case. Inquiry by Magistrate into cause of death.

Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined. Power to disinter corpses.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.

A.—*Place of Inquiry or Trial.*

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction be not repugnant to any direction previously issued under the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, or under this Code, section 526.

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Place of trial where act is offence by reason of relation to other offence.

Illustrations.

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be enquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

181. The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Being a thug or belonging to a gang of dacoits, escape from custody, &c.

The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received by the accused person, or the offence was committed.

Criminal misappropriation and criminal breach of trust.

The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was pos-

Stealing.

sessed by the thief or by any person who receives or retains the same knowing or having reason to believe it to be stolen.

Place of inquiry or trial where scene of offence is uncertain or not in one district only; or where offence is continuing, or consists of several acts.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Offence committed on a journey.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offences against Railway, Telegraph, Post-office and Arms Acts.

184. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-office or Arms and Ammunition may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not:

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

185. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this chapter be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is, may

decide by which Court the offence shall be inquired into or tried.

In British Burma, when the offender is an European British subject, the Recorder of Rangoon, and in all other cases the Judicial Commissioner, shall, for the purposes of this section, be deemed to be the High Court.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

186. When a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate, or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Magistrate's procedure on arrest.

When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the High Court.

Procedure where warrant issued by Subordinate Magistrate.

187. If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the

District Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of British subjects for offences committed out of British India.

188. When an European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agent to certify fitness of inquiry into charge.

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India:

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879, (XXI of 1879) in respect of the same offence in any territory beyond the limits of British India.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

Power to direct copies of depositions and exhibits to be received in evidence.

190. In sections 188 and 189 the expression "Political Agent" means and includes—

"Political Agent" defined.

(*a*) the principal officer representing the British Indian Government in any territory beyond the limits of British India;

(*b*) any officer in British India appointed by the Governor-General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent, under the Foreign Jurisdiction and Extradition Act, 1879, (XXI of 1879) for any territory not forming part of British India.

B.—Conditions requisite for Initiation of Proceedings.

191. Except as hereinafter provided, any Presidency Magistrate, District Magistrate, or Subdivisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence.—[*Act No. XII of* 1891, 2*nd Sch.*]

Cognizance of offences by Magistrates.

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a police report of such facts;

(*c*) upon information received from any person

other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under clause (*a*) or clause (*b*) of offences for which he may try or commit for trial.

The Local Government may empower any Magistrate of the first or second class to take cognizance under clause (*c*) of offences for which he may try or commit for trial.

[a]When a Magistrate takes cognizance of an offence under clause (*c*), the accused, or, when there are several persons accused, any one of them, shall be entitled to require that the case shall, instead of being tried by such Magistrate, be either transferred to another Magistrate or committed to the Court of Session.[a]

Transfer of cases by Magistrates.

192. Any District Magistrate or Subdivisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him.

Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

Cognizance of offences by Courts of Session.

193.[b] Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of

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[a-a] This para. of s. 191 has been added by Act III of 1884, s. 2.

[b] For procedure of Courts of Session in Upper Burma, see Reg. VII of 1886, Sch., s. III (2), but as to European British subjects, see XXII, *ib.*

any offence as a Court of original jurisdiction, unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

Cases to be tried by Additional and Joint Sessions Judges;

Additional Sessions Judges and Joint Sessions Judges shall try such cases only as the Local Government by general or special order directs them to try, or as the Sessions Judge of the division makes over to them for trial.

by Assistant Sessions Judges.

Assistant Sessions Judges shall try such cases only as the Sessions Judge of the division by general or special order makes over to them for trial.

Cognizance of offences by High Court.

194. The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the twenty-fourth and twenty-fifth of Victoria, chapter 104.

195. No Court shall take cognizance—

Prosecution for contempts of lawful authority of public servants.

(*a*) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (XLV of 1860,) except with the previous sanction, or on the complaint, of the public servant concerned or of some public servant to whom he is subordinate;

Prosecution for certain offences against public justice.

(*b*) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code, when such offence is committed in, or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

Prosecution for certain

(*c*) of any offence described in section 463 or punishable under section 471, 475 or 476

offences relating to documents given in evidence.

of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

Nature of sanction necessary.

The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no such sanction shall remain in force for more than six months from the date on which it was given.

For the purposes of this section every Court, other than a Court of Small Causes, shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie.

The Courts of Small Causes in the Presidency-towns shall be deemed to be subordinate to the High Court, and every other Court of Small Causes shall be deemed to be subordinate to the Court of Session for the sessions division within which such Court is situate.

Prosecution for offences against the State.

196. [a]No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code (XLV of 1860) except section 127, or punish-

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[a] As to State offences and false evidence by person to whom pardon has been tendered in Upper Burma, see Reg. VII of 1886, Sch., s. X; but as to European British subjects, see s. XXII, *ib.*

able under section 294A of the same Code, unless upon complaint made by order of, or under authority from, the Governor-General in Council, the Local Government, or some officer empowered by the Governor-General in Council in this behalf.

197. When any Judge, or any public servant not removeable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power to give such sanction has not been limited by such Government. Prosecution of Judges and public servants.

Such Government may determine the person by whom, and the manner in which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held. Power of Government as to prosecution.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code (XLV of 1860), or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence. Prosecution for breach of contract, defamation and offences against marriage.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed. Prosecution for adultery or enticing a married woman.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

Examination of complainant.

200. A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows:—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192;

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing:

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. If the complaint has been made in writing and the Magistrate is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper tribunal with an endorsement to that effect.

Postponement of issue of process.

202. If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorize in this behalf,

or any Magistrate of the first or second class, sees reason to distrust the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons for distrusting the truth of the complaint, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a police-officer, or by such other person, not being a Magistrate or police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

If such investigation is made by some person not being a Magistrate or a police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

This section applies to the police in the towns of Calcutta and Bombay.

203. The Magistrate before whom a complaint is made or to whom it has been transferred may dismiss the complaint if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding. Dismissal of complaint.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. If, in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, Issue of process.

a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or some other Magistrate having jurisdiction.

Nothing in this section shall be deemed to affect the provisions of section 90.

Magistrate may dispense with personal attendance of accused.

205. Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Power to commit for trial.

206. Any Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class, or any Magistrate empowered in this behalf by the Local Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court—[*Act No. XII of* 1891, 2*nd Sch.*]

But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries pre-

207. The following procedure shall be adopted in inquiries before Magistrates where the case is

triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court. paratory to commitment.

Taking of evidence produced.

208. The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

Process for production of further evidence.

If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged.

209. When the evidence referred to in section 208, paragraphs 1 and 2, has been taken, and he has examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. When, upon such evidence being taken and such examination (if any) being made, the Magistrate finds that there are sufficient grounds for committing

the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished, to accused.

As soon as the charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

List of witnesses for defence on trial.

211. The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

Further list.

The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Power of Magistrate to examine such witnesses.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

Order of commitment.

213. When the accused on being required to give in a list under section 211 has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order commiting the accused for trial by the High Court or the Court of session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

Person charged outside presidency-towns jointly with

214. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject

who is about to be committed for trial, or to be tried, before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

European British subject.

215. A commitment once made under section 213 or section 214 by a competent Magistrate can be quashed by the High Court only, and only on a point of law.

Quashing commitments under section 213 or 214.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed:

Summons to witnesses for defence when accused is committed.

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness.

Refusal to summon unnecessary witness unless deposit made,

217. Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary, and who appear before the Magistrate, shall execute before him bonds

Bond of complainants and witnesses.

binding themselves to be in attendance when called upon at the Court of Session or High Court, to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

If any complainant or witness refuses to attend before the Court of Session or High Court, or to execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

Charge, &c., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

English translation to be forwarded to High Court.

When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

Power to summon supplementary witnesses.

219. The Magistrate may summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

Such examination shall, if possible, be, taken in the presence of the accused, and, where the Magis-

trate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody. Custody of accused pending trial.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. Every charge under this Code shall state the offence with which the accused is charged. Charge to state offence.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only. Specific name of offence sufficient description.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged. How stated where offence has no specific name.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case. What implied in charge.

In the presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court. Language of charge.

If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punish- Previous conviction when to be set out.

ment which the Court is competent to award, the fact, date and place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

Illustrations.

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code (XLV of 1860); that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisoes to that exception applied to it.

(*b*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

222. The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

When manner of committing offence must be stated.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a*) A is accused of the theft of a certain article at a certain time and

place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Words in charge taken in sense of law under which offence is punishable.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

Illustrations.

(*a*) A is charged, under section 242 of the Indian Penal Code (XLV of 1860) with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d*) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar

Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e*) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled and that the error was material.

Procedure on commitment without charge or with imperfect charge.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge, or add to, or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Court may alter charge.

227. Any Court may alter any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

Every such alteration shall be read and explained to the accused.

When trial may proceed immediately after alteration.

228. If the charge framed or alteration made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When new trial may be directed, or trial suspended.

229. If the new or altered charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a

new trial or adjourn the trial for such period as may be necessary.

230. If the offence stated in the new or altered charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

231. Whenever a charge is altered by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration, any witness who may have been examined.

Recall of witnesses when charge altered.

232. If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

Effect of material error.

If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under section 196 of the Indian Penal Code (XLV of 1860), upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of Charges.

233. For every distinct offence of which any person is accused there shall be a separate charge, and

Separate charges for

distinct offences.

every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

Three offences of same kind within year may be charged together.

234. When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (XLV of 1860), or of any special or local law.

I.—Trial for more than one offence.

235. I.—If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

II.—Offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

III.—Acts constituting one offence, but constituting when combined a different offence.

III.—If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one, or more, of such acts.

Nothing contained in this section shall affect the Indian Penal Code (XLV of 1860), section 71.

Illustrations—

to paragraph I—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and tried for, offences under sections 225 and 333 of the Indian Penal Code.

(*b*) A commits housebreaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(*c*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 491 of the Indian Penal Code.

(*d*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding ; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code (XLV of 1860).

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time.

to paragraph II—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(*j*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged

with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

to paragraph III—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392, and 394 of the Indian Penal Code.

Where it is doubtful what offence has been committed.

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

When a person is charged with one offence, he can be convicted of another.

237. If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

When offence proved in-

238. When a person is charged with an offence consisting of several particulars, a combination of

some only of which constitutes a complete minor offence, and such combination is proved but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

cluded in offence charged.

When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(*a*) A is charged under section 407 of the Indian Penal Code (XLV of 1860) with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b*) A is charged under section 325 of the Indian Penal Code (XLV of 1860) with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

239. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(*a*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transac-

tion. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

Withdrawal of remaining charges on conviction on one of several charges.

240. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

Of the Trial of Summons-cases by Magistrates.

Procedure in summons-cases.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance of accusation to be stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

Conviction on admission of truth of accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

Procedure when no such admission is made.

244. If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be pro-

duced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

245. If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal. Acquittal.

If he finds the accused guilty, he shall pass sentence upon him according to law. Sentence.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons. Finding not limited by complaint or summons.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day. Non-appearance of complainant.

248. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds Withdrawal of complaint.

for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

Power to stop proceedings when no complainant.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

250. *Repealed by Act No. IV of* 1891, *s.* 1.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in warrant-case.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

Evidence for prosecution.

252. When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

Discharge of accused.

253. If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made

out of which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

254. If, when such evidence and examination have been taken and made, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

Charge to be framed when offence appears proved.

255. The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

Plea.

If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

256. If the accused refuses to plead or does not plead, or claims to be tried, he shall be called upon to enter upon his defence and to produce his evidence, and shall, at any time while he is making his defence, be allowed to recall and cross-examine any witness for the prosecution present in the Court or its precincts.

Defence.

If the accused puts in any written statement, the Magistrate shall file it with the record.

257. If the accused applies to the Magistrate to issue any process for compelling the attendance of any witness (whether he has or has not been previously examined in this case) for the purposes of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for

Process for compelling production of evidence at instance of accused.

the purpose of vexation or delay, or for defeating the ends of justice. Such ground shall be recorded by him in writing.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Acquittal.

258. If in any case under this chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction.

If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

Absence of complainant.

259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

OF SUMMARY TRIALS.

Power to try summarily.

260.[a] Notwithstanding anything contained in this Code—

(1) the District Magistrate,

(2) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(3) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the Local Government,

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[a] As to powers of Magistrates in Upper Burma, see Reg. VII of 1886, Sch., s. VI; but as to European British subjects, see s. XXII, *ib.*

may try in a summary way all or any of the following offences :—

(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code (XLV of 1860) ;

(*c*) hurt, under section 323 of the same Code ;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees ;

(*e*) receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees ;

(*f*) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;

(*g*) mischief, under section 427 of the same Code ;

(*h*) house-trespass, under section 448 of the same Code ;

(*i*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;

(*j*) abetment of any of the foregoing offences ;

(*k*) an attempt to commit any of the foregoing offences, when such attempt is an offence :

Provided that no case in which a District Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

Power to invest Bench of Magistrates invested with less power.

261. The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

(*a*) offences against the Indian Penal Code (XLV of 1860), sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, and 447 ;

(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts, punishable only with fine, or with imprisonment for a term not exceeding one month ;

(*c*) abetment of any of the foregoing offences ;

(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.

Procedure for summons and warrant-cases applicable.

262. In trials under this chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment.

No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this chapter.

Record in cases where there is no appeal.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars :—

(*a*) the serial number ;

(*b*) the date of the commission of the offence ;

(*c*) the date of the report or complaint ;

(*d*) the name of the complainant (if any) ;

(*e*) the name, parentage and residence of the accused ;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*) or clause (*f*) of section 260 the value of the property in respect of which the offence has been committed;

(*g*) the plea of the accused and his examination (if any);

(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(*i*) the sentence or other final order; and

(*j*) the date on which the proceeding terminated.

264. In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263. Record in appealable cases.

Such judgment shall be the only record in cases coming within this section.

265. Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue. Language of record and judgment.

The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings. Bench may be authorized to employ clerk.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.[a]

A.—Preliminary.

"High Court" defined.

266. In this chapter, except in [b]sections 276 and 307,[b] the expression "High Court" means a High Court of Judicature established or to be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, and includes the Chief Court of the Punjab, and the Recorder of Rangoon, and such other Courts as the Governor-General in Council may, by notification in the Gazette of India, declare to be High Courts for the purposes of this chapter.—[*Act No. XI of* 1889, 2*nd Sch.*]

Trials before High Court to be by jury.

267. All trials under this chapter before a High Court shall be by jury;

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this [redacted] or under the Letters Patent of any High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, the trial may, if the High Court so directs, be by jury.

Trials before Court of Session to be by jury or with assessors.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

Local Government may order trials before Court of Session to be by jury.

269. The Local Government may, by order in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may revoke or alter such order.

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[a] As to Courts of Session in Upper Burma, see Reg. VII of 1886, Sch., s. III; but as to European British subjects, see s. XXII, *ib.*

[b-b] These words and figures in s. 266 have been substituted by Act X of 1886, s. 8.

[a]When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.[a]

Trial before Court of Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

Commencement of trial.

271. When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead or claim to be tried.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Trial by same jury or assessors of several offenders in succession.

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

Entry on unsustainable charge.

273. In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Effect of entry.

Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

[a a] The second para. of s. 269 has been substituted by Act X of 1886, s. 9.

C.—Choosing a Jury.

Number of jury.

274. In trials before the High Court the jury shall consist of nine persons.

In trials by jury before the Court of Session the jury shall consist of such uneven number not being less than three, or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct.

Jury for trial of persons not Europeans or Americans before Court of Session.

275. In a trial by jury before the Court of Session of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

Jurors to be chosen by lot.

276. The jurors shall be chosen by lot from the persons summoned to act as such, in such manner as the High Court may from time to time by rule direct:

Proviso—

Provided that—

existing practice maintained;

first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed :

persons not summoned when eligible;

secondly, in case of a deficiency of persons, summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present ;

trials before special jurors.

thirdly, in the presidency-towns—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed.

4thly in any dist for wh the L. Gt has declared that the trial of certain offences may be by spl jury the jurors shall, in any case in wh the Judge so directs be chosen from the spl jury

277. As each juror is chosen his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Names of jurors to be called.

Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated :

Objection to jurors.

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

Objection without grounds stated.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed—

Grounds of objection.

(*a*) some presumed or actual partiality in the juror ;

(*b*) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;

(*c*) his having by habit or religious vows relinquished all care of worldly affairs ;

(*d*) his holding any office in or under the Court ;

(*e*) his executing any duties of police or being entrusted with police-duties ;

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

(*g*) his inability to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted ;

(*h*) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of objection.

279. Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or, if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury:

Provided that no objection to such juror or other person is taken under section 278 and allowed.

Foreman of jury.

280. When the jurors have been chosen, they shall appoint one of their number to be foreman.

The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

Swearing of jurors.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873, (X of 1873).

Procedure when juror ceases to attend, &c.

282. If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

In each of such cases the trial shall commence anew.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar. Discharge of jury in case of sickness of prisoner.

D.—Choosing Assessors.

284. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such. Assessors how chosen.

285. If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors. Procedure when assessor is unable to attend.

If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

E.—Trial to Close of Cases for Prosecution and Defence.

286. When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code (XLV of 1860) or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused. Opening case for prosecution.

The prosecutor shall then examine his witnesses. Examination of witnesses.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence. Examination of accused before Magistrate to be evidence.

288. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if Evidence given at preliminary in-

quiry admissible.

such witness is produced and examined, be treated as evidence in the case.

Procedure after examination of witnesses for prosecution.

289. When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict, of not guilty.

If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict, of not guilty.

If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

Defence.

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Right of accused as to

291. The accused shall be allowed to examine any witness not previously named by him, if such witness

is in attendance; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial. examination and summoning of witnesses.

292. If the accused, or any of the accused, has stated, when asked under section 289, that he means to adduce evidence, the prosecutor shall be entitled to reply. Prosecutor's right of reply.

293. Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court. View by jury or assessors.

Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness. When juror or assessor may be examined.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial. Jury or assessors to attend at adjourned sitting.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; Locking up jury.

and, subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in cases tried by Jury.

Charge to jury.

297. In cases tried by jury, when the case for the defence, and the prosecutor's reply (if any), are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Duty of Judge.

298. In such cases it is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a*) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b*) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

299. It is the duty of the jury— Duty of jury.

(*a*) to decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(*c*) to decide all questions which according to law are to be deemed questions of fact;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(*a*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b*) The question is whether a person entertained a reasonable belief on a particular point,—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

Retirement to consider.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Delivery of verdict.

301. When the jury have considered their verdict the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

Procedure where jury differ.

302. If the jury are not unanimous, the Judge may require them to retire, for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Verdict to be given on each charge. Judge may question jury.

303. Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded.

Such questions and the answers to them shall be recorded.

Amending verdict.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court when to prevail.

305. When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

If the Judge disagrees with the majority, he shall at once discharge the jury.

If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail.

306. When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict.

307. If in any such case the Sessions Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, ~~so completely that he considers it~~ necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed.

and is clearly of opinion that it is

Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody or admit him to bail.

In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal; ~~but it may~~ acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass

x and subject to it shall ... considering entire evide... and after g... due weigh... to the opinions of the Sessions Judge and the jury

such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

Re-trial of accused after discharge of jury.

308. Whenever the jury is discharged the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury, unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in Cases tried with Assessors.

Delivery of opinions of assessors.

309. When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record such opinion.

Judgment.

The Judge shall then give judgment, but in doing so shall not be bound to conform to the opinions of the assessors.

If the accused is convicted, the Judge shall pass sentence on him according to law.

I.—Procedure in Case of Previous Conviction.

Procedure in case of previous conviction.

310. In the case of a trial by jury or with the aid of assessors, where the accused is charged with an offence committed after a previous conviction, for any offence, the procedure laid down in sections 271, 286, 305, 306 and 309 shall be modified as follows:—

(*a*) the part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence :

(b) if he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge:

(c) if he answers that he has been so previously convicted, the Judge may proceed to pass sentence on him accordingly; but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the jury, or the Court and the assessors (as the case may be), shall then inquire concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

Notwithstanding anything in this section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.—[*Act No. III of* 1891, *s.* 9.]

J.—List of Jurors for High Court, and summoning Jurors for that Court.

311. *Repealed by Act No. XII of* 1891, *Sch.* 1.

312. The names of not more than four[a] hundred persons shall at any one time be entered in the special jurors' list. Number of special jurors.

313. The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare— Lists of common and special jurors.

(a) a list of all persons liable to serve as common jurors; and

(b) a list of persons liable to serve as special jurors only.

a The word "four" in s. 312 has been substituted by Act V of 1887, s. 2.

Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

The Governor-General in Council in the case of the High Court at Calcutta, and, in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

Discretion of officer preparing lists.

The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication of lists, preliminary and revised.

314. Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

Number of jurors to be summoned in presidency-town.

315. Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

No person shall be so summoned more than once in six months unless the number cannot be made up without him.

If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions. *Supplementary summons.*

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session. *Summoning jurors outside the presidency towns.*

317. In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the commanding officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid. *Military jurors.*

All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his commanding officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

318. Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks *Failure of jurors to attend.*

fit; and, in default of payment of such fine, to imprisonment in the Civil jail until the fine is paid.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

Liability to serve as jurors or assessors.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside. or if the L.G. on consideration of local circumstances, has fixed any smaller area in this behalf within the area fixed.

Exemptions.

320. The following persons are exempt from liability to serve as jurors or assessors, namely:—

(*a*) officers in civil employ superior in rank to a District Magistrate;

(*b*) Judges;

(*c*) Commissioners and Collectors of Revenue or Customs;

(*d*) persons engaged in the Preventive Service in the Customs Department;

(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(*f*) persons actually officiating as priests or ministers of their respective religions;

(*g*) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;

(*h*) Surgeons and others who openly and constantly practise the medical profession;

(*i*) persons employed in the Post-office and Telegraph Departments;

(*j*) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure (XIV of 1882), sections 640 and 641;

(*k*) other persons exempted by the Local Government from liability to serve as jurors or assessors.

321. The Sessions Judge, and the Collector of the district or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (*b*) to (*h*), both inclusive. List of jurors and assessors.

The list shall contain the name, place of abode and quality or business of every such person; and, if the person is an European or an American, the list shall mention the race to which he belongs.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court-houses of the District Magistrate and of the District Court, and in some conspicuous place in the town or towns in or near which the persons named in the list reside. Publication of list.

323. To every such copy shall be subjoined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions Court-house, and at a time to be mentioned in the notice. Objections to list.

324. For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may establish his right to any exemption from service given by section 320, Revision of list.

and insert the name of any person omitted from the list whom they deem qualified for such service.

In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

Annual revision of list.

325. The list so prepared and revised shall be again revised once in every year.

The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

District Magistrate to summon jurors and assessors.

326. The Sessions Judge shall ordinarily, three days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those ~~on the revised list~~ who have served within six months, unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

Power to summon another set of jurors or assessors.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever for other reasons such direction is found to be necessary.

Form and contents of summons.

328. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

When Government or Railway servant may be excused.

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears, on the representation of the head of the office in which he is employed, that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

Court may excuse attendance of juror or assessor.

330. The Court of Session may, for reasonable cause, excuse any juror or assessor from attendance at any particular session.

330A.

List of jurors and assessors attending.

331. At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

Such list shall be kept with the list of the jurors and assessors as revised under section 324.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

332. Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the per-

330A. The C. of S. may, if it shall think fit at the Conclu[sion of] any trial by the jury direct that the jurors who [have] served on such jury shall not be summoned

mission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable, by order of the Court of Session, to a fine not exceeding one hundred rupees.

Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

Power of Advocate-General to stay prosecution.

333. At any stage of any trial before a High Court under this Code before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor-General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

. But it may, from time to time, in the case of the High Court at Fort William with the consent of the Governor-General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court. Notice of sittings.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court, or direct that they shall be tried at a particular place named. Place of trial of European British subjects.

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

337.[a] In the case of any offence [b]triable exclusively by the Court of Session or High Court,[b] the District Magistrate, a Presidency Magistrate, any Magistrate of the first class inquiring into the offence, or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the Tender of pardon to accomplice.

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a As to tender of pardon to accomplice in Upper Burma and trial of the case by the Magistrate, see Reg. VII of 1886, Sch., s. XI; but as to European British subjects, see s. XXII, *ib.*

b-b In place where the Punjab Frontier Crimes Regulation, 1887, is in force, these words in s. 337 are to be omitted—see Reg. IV of 1887, s. 9.

whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial [c]by the Court of Session or High Court, as the case may be.[c]

Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and when any Magistrate has made such tender and examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

Power to direct tender of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339.[a] Where a pardon has been tendered under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect

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c-c In places where the Punjab Frontier Crimes Regulation, 1887, is in force, these words in s. 337 are to be omitted—see Reg. IV of 1887, s. 9.

a As to State offences and false evidence by person to whom pardon has been tendered in Upper Burma, see Reg. VII of 1886, Sch., s. X; but as to European British subjects, see s. XXII, *ib.*

of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been withdrawn under this section.

No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

340. Every person accused before any Criminal Court may of right be defended by a pleader. Right of accused to be defended.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit. Procedure where accused does not understand proceedings.

342. For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined, and before he is called on for his defence. Power to examine the accused.

The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

No oath shall be administered to the accused.

No influence to be used to induce disclosures.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Power to postpone or adjourn proceedings.

344. If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, the Court may, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Remand.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

Reasonable cause for remand.

EXPLANATION.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences.

345. The offences punishable under the sections of the Indian Penal Code (XLV of 1860) described in the first two columns of the table next following

may be compounded by the persons mentioned in the third column of that table :—

Offence.	Sections of Indian Penal Code applicable.	Person by whom offence may be compounded.
Uttering words, &c., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force .	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour .	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House-trespass	448	
Criminal breach of contract of service.	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with a criminal intent a married woman.	488	
Defamation	500	The person defamed.
Printing or engraving matter knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation, except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.

The offence of voluntarily causing hurt, voluntarily causing grievous hurt, causing hurt by an act which endangers life, or causing grievous hurt by an act which endangers life, punishable under section 324, section 335, section 337 or section 338 of the Indian Penal Code (XLV of 1860) may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused.

When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence.

The composition of an offence under this section shall have the effect of an acquittal of the accused.

No offence not mentioned in this section shall be compounded.

Procedure of Provincial Magistrate in cases which he cannot dispose of.

346. If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate, or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

347. If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained.

Procedure when after commencement of inquiry or trial Magistrate finds case should be committed.

If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code (XLV of 1860) with imprisonment for a term of three years or upwards is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate before whom he is accused considers him an habitual offender, be committed to the Court of Session or High Court, as the case may be; or, in districts in which the District Magistrate has been invested with powers under section 30, placed on his trial before such Magistrate.

Trial of persons previously convicted of offences against coinage, stamp-law or property.

349. Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Subdivisional Magistrate to whom he is subordinate.

Procedure when Magistrate cannot pass sentence sufficiently severe.

The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given

evidence in the case, and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law:

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

350. Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and re-commence the inquiry or trial:

Provided as follows:—

(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;

(*b*) the High Court, or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

Nothing in this section applies to cases in which proceedings have been stayed under section 346.

Detention of offenders at-

351. Any person attending a Criminal Court, although not under arrest or upon a summons, may be

detained by such Court for the purpose of examination for any offence of which such Court can take cognizance and which, from the evidence, he may appear to have committed, and may be proceeded against as though he had been arrested or summoned. — tending Court.

When the detention takes place in the course of an inquiry under Chapter XVIII, or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them :

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.[a]

Evidence to be taken in presence of accused.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate

a As to recording of evidence in inquiries and trials before a Magistrate of Court of Session in Upper Burma, see Reg. VII of 1886, Sch., s. XII but as to European British subjects, see s. XXII, *ib.*

outside Presidency-towns.

(other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases, and in trials of certain offences by first and second class Magistrates.

355. In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in section 260, clauses (*b*) to (*k*), both inclusive, when tried by a Magistrate of the first or second class, the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

Record in other cases outside presidency-towns.

356. In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates) and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court, by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence, and shall be signed by the Magistrate or Sessions Judge.

Evidence given in English.

When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

Memorandum when evidence not taken down by the Magistrate or Judge himself.

If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

Language of record of evidence.

357. The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

Option to Magistrate in cases under section 355.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government

has made the order referred to in section 357, in the manner provided in the same section.

Mode of recording evidence under section 356 or section 357.

359. Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

Procedure in regard to such evidence when completed.

360. As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

Interpretation of evidence to accused or his pleader.

361. Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

362. In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

Record of evidence in Presidency Magistrates' Courts.

Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Remarks respecting demeanour of witness.

364. Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Punjab, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or English: and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

Examination of accused how recorded.

When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify

under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

Record of evidence in High Court.

365. Every High Court established by Royal Charter and the Chief Court of the Punjab may, from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

CHAPTER XXVI.

Of the Judgment.

Mode of delivering judgment.

366. The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court either immediately or at some subsequent time of which due notice shall be given to the parties or their pleaders; and the accused shall, if in custody, be brought up, or, if not in custody, shall be

required to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only, in which case it may be pronounced in the presence of his pleader.

367. Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon, and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it. Language of judgment. Contents of judgment.

It shall specify the offence (if any) of which, and the section of the Indian Penal Code (XLV of 1860), or other law under which, the accused is convicted, and the punishment to which he is sentenced.

When the conviction is under the Indian Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative. Judgment in alternative.

If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed:

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

368. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead. Sentence of death.

Sentence of transportation.

No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to alter judgment.

369. No Court, other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in section 395, or to correct a clerical error.

Presidency Magistrate's judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(*a*) the serial number of the case ;

(*b*) the date of the commission of the offence ;

(*c*) the name of the complainant (if any) ;

(*d*) the name of the accused person, and (except in the case of an European British subject) his parentage and residence ;

(*e*) the offence complained of or proved ;

(*f*) the plea of the accused and his examination (if any) ;

(*g*) the final order ;

(*h*) the date of such order ; and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

Judgment to be explained and copy given to accused.

371. The judgment shall be explained to the accused, and on his application a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the

application of the accused, be given to him without delay and free of cost.

When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred. Case of person sentenced to death.

372. The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record. Judgment when to be translated.

373 In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held. Court of Session to send copy of finding and sentence to District Magistrate.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court. Sentence of death to be submitted by Court of Session.

375. If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session. Power to direct further inquiry to be made or additional evidence to be taken.

Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the

presence of the convicted person may be dispensed with when the same is made or taken.

When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation or new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

Procedure in case of difference of opinion.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in

379. In cases submitted by the Court of Session

to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court, and attested with his official signature, to the Court of Session.

cases submitted to High Court for confirmation.

Confirmation of sentence of Assistant Sessions Judge or Magistrate acting under section 34.

380. When a sentence passed by an Assistant Sessions Judge or by a District Magistrate acting under section 34 is submitted to a Sessions Judge for confirmation, such Sessions Judge—

(*a*) may confirm the sentence, or pass any other sentence which the lower Court might have passed; or

(*b*) may annul the conviction, and convict the accused of any offence of which the lower Court might have convicted him, or order a new trial on the same or an amended charge; or

(*c*) may acquit the accused; or

(*d*) if he thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, he may make such inquiry or take such evidence himself, or direct such inquiry or evidence to be made or taken.

Unless the Court of Session otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or evidence taken; and, when the sentence has been submitted by an Assistant Sessions Judge, such inquiry shall not be made, nor shall such evidence be taken, in the presence of jurors or assessors.

When the inquiry and the evidence (if any) are not made and taken by the Court of Session, the result of such inquiry and the evidence shall be certified to such Court.

CHAPTER XXVIII.

OF EXECUTION.

Execution of order passed under section 376.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

Postponement of capital sentence on pregnant woman.

382. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence to transportation for life.

Execution of sentences of transportation or imprisonment in other cases.

383.[a] Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is to be confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

Direction of warrant for execution.

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

Warrant with whom to be lodged.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant for levy of fine.

386. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant for the levy of the amount by distress and sale of any moveable property belonging

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[a] As to execution of sentences of imprisonment for six months or less in Upper Burma, see Reg. VII of 1886, Sch., s. XIII; but as to European British subjects, see s. XXII, *ib.*

to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

387. Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

Effect of such warrant.

388. When an offender has been sentenced to fine only, and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 386, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once.

Suspension of execution of sentence of imprisonment.

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence or by his successor in office.

Who may issue warrant.

390. When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

Execution of sentence of whipping only.

391. When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal be made within that time, until the sentence is confirmed by the Appellate Court; but the whip-

Execution of sentence of whipping, in addition to imprisonment.

ping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

Mode of inflicting punishment.

392. In the case of a person of or over sixteen years of age, whipping shall be inflicted with a light ratan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Limit of number of stripes.

In no case shall such punishment exceed thirty stripes.

Not to be executed by instalments.

393. No sentence of whipping shall be executed by instalments: and none of the following persons shall be punishable whith whipping (namely):—

Exemptions.

(*a*) females;

(*b*) males sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years;

(*c*) males whom the Court considers to be more than forty-five years of age.

Whipping not to be inflicted if offender not in fit state of health.

394. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Stay of execution.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit

state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

395. In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

Procedure if punishment cannot be inflicted under section 394.

Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

396. When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say:—

Execution of sentences on escaped convicts.

If the new sentence is severer in its quality than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

When the new sentence is not severer in its quality than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

EXPLANATION.—For the purposes of this section—

(*a*) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment;

(*b*) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(*c*) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on offender already sentenced for another offence.

397. When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced:

Provided that if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

Saving as to sections 396 and 397.

398.[a] (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with

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[a] S. 398 has been substituted by Act X of 1886, s. 10.

imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

399.[a] When any person under the age of sixteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein. *Confinement of youthful offenders in reformatories.*

All persons confined under this section shall be subject to the rules so prescribed.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed. *Return of warrant on execution of sentence.*

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. When any person has been sentenced to punishment for an offence, the Governor-General in *Power to suspend or remit sentences.*

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a S. 399 (corresponding to s. 318 of the old Code, X of 1872) is repealed in provinces in which the Reformatory Schools Act, 1876, is declared in force—see Act V of 1876, ss. 1 and 2, and s. 3, *supra*.

Council, or the Local Government, may at any time, without conditions, or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

Whenever an application is made to the Governor-General in Council or the Local Government for the suspension or remission of a sentence, the Governor-General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

[a]If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor-General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.[a]

[b] The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.[b]

Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment.

Power to commute punishment.

402. The Governor-General in Council, or the Local Government, may, without the consent of the

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a-a The third para. of s. 401 has been substituted by Act X of 1886, s. 11 (1).

b-b This para. of s. 401 has been inserted by Act X of 1886, s. 11 (2).

person sentenced, commute any one of the following sentences for any other mentioned after it :—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

CHAPTER XXX.

Of previous Acquittals or Convictions.

Person once convicted or acquitted not to be tried for same offence.

403. A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, paragraph one.

A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed, if the Court

by which he was first tried was not competent to try the offence with which he is subsequently charged.

EXPLANATION.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused, or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of this section.

(*f*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.

Unless otherwise provided, no appeal to lie.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order rejecting application for restoration of attached property.

406. Any person required by a Magistrate, other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118 may appeal to the District Magistrate.

Appeal from order requiring security for good behaviour.

407. Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Subdivisional Magistrate of the second class, may appeal to the District Magistrate.

Appeal from sentence of Magistrate of the second or third class.

The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals shall be presented to such subordinate Magistrate, or if already presented to the District Magistrate shall be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Transfer of appeals to first class Magistrate.

408.[a] Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Magistrate of the first class, may appeal to the Court of Session :

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

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a As to appeal from sentence of a District Magistrate in Upper Burma and limitation therefor, see Reg. VII of 1886, Sch., s. XIV; but as to European British subjects, see s. XXII, *ib.*

In places where the Punjab Frontier Crimes Regulation, 1887, is in force, certain appeals lie to the Chief Court and not to the Court of Session—see Reg. IV of 1887, s. 7(2).

Provided as follows:—

(*a*) when in any case an Assistant Sessions Judge or a District Magistrate passes any sentence which is subject to the confirmation of the Court of Session, every appeal in such case shall lie to the High Court, but shall not be presented until the case has been disposed of by the Court of Session;

(*b*) any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session.

Appeals to Court of Session how heard.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional or Joint Sessions Judge.

Appeal from sentence of Court of Session.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional or a Joint Sessions Judge, may appeal to the High Court.

Appeal from sentence of Presidency Magistrate.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

No appeal in certain cases when accused pleads guilty.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or a Presidency Magistrate on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in petty cases.

413.[a] Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month

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[a] For restrictions on appeals in Upper Burma, see Reg. VII of 1886, Sch., s. XV; but as to European British subjects, see s. XXII, *ib.*

only, or of fine not exceeding fifty rupees only, or of whipping only.

EXPLANATION.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has been passed.

414.[a] Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only or of whipping only. No appeal from certain summary convictions.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace. Proviso to sections 413 and 414.

EXPLANATION.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

416. Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects. Saving of sentences on European British subjects.

417. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court. Appeal on behalf of Government in case of acquittal.

418. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was Appeal on what matters admissible.

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a For restrictions on appeals in Upper Burma, see Reg. VII of 1886, Sch., s. XV; but as to European British subjects, see s. XXII, *ib.*

by jury, in which case the appeal shall lie on a matter of law only.

EXPLANATION.—The alleged severity of a sentence shall for the purposes of this section be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Summary rejection of appeal.

421. On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may reject the appeal summarily:

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

Before rejecting an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the Appellate Court does not reject the appeal summarily, it shall cause notice to be given to the appellant or his pleader and to such officer as the Local Government may appoint in this behalf, of the time and place at which such appeal will be heard,

and shall, on the application of such officer furnish him with a copy of the grounds of appeal;

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

423.[a] The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused, if he appears, the Court may, if it considers there is no sufficient ground for interfering, dismiss the appeal, or may— Powers of Appellate Court in disposing of appeal.

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(*b*) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) after the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or, (3) with or without such reduction, and with or without altering the finding, alter the nature of the sentence, but not so as to enhance the same;

(*c*) in an appeal from any other order, alter or reverse such order.

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a As to power of enhancing punishment on appeal in Upper Burma, see Reg. VII of 1886, Sch., s. XVI; but as to European British subjects, see s. XXII, *ib.*

(*d*) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

Judgment of subordinate Appellate Courts.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up or required to attend, to hear judgment delivered.

Order by High Court on appeal to be certified to Lower Court.

425. Whenever a case is decided on appeal by the High Court under this chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and, if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending appeal.

Release of appellant on bail.

426. Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, if he is in confinement, that he be released on bail or on his own bond.

The power conferred by this section on an Appellate Court may be exercised also by the High Court

in the case of any appeal by a convicted person to a Court subordinate thereto.

When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail. Arrest of accused in appeal from acquittal.

428. In dealing with any appeal under this chapter, the Appellate Court, if it thinks additional evidence to be necessary, may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate. Appellate Court may take further evidence or direct it to be taken.

When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

The taking of evidence under this section shall, for the purposes of Chapter XXV, be deemed to be an inquiry.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such examination and such hearing (if any) as he thinks Procedure where Judges of Court of Appeal are equally divided.

fit shall deliver his opinion, and the judgment or order shall follow such opinion.

Finality of orders on appeal.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

Abatement of appeals.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this chapter shall finally abate on the death of the appellant.

CHAPTER XXXII.

OF REFERENCE AND REVISION.

Reference by Presidency Magistrate to High Court.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

433. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

Direction as to costs.

The High Court may direct by whom the costs of such reference shall be paid.

Power to reserve questions arising in original jurisdiction of High Court.

434. When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges

of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail; Procedure when question reserved.

and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit.

435. The High Court or any Court of Session, or District Magistrate, or any Subdivisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction, for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court. Power to call for records of inferior Courts.

If any Subdivisional Magistrate acting under this section considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

Orders made under sections 143 and 144 and proceedings under section 176 are not proceedings within the meaning of this section.

436. When, on examining the record of any case under section 435 or otherwise, the Court of Session or District Magistrate considers that such case is triable exclusively by the Court of Session, and that Power to order commitment.

an accused person has been improperly discharged by the inferior Court, the Court of Session or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Court of Session or District Magistrate, improperly discharged:

Provided as follows:—

(*a*) that the accused has had an opportunity of showing cause to such Court or Magistrate why the commitment should not be made:

(*b*) that, if such Court or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Court or Magistrate may direct the inferior Court to inquire into such offence.

Power to order inquiry.

437. On examining any record under section 435 or otherwise, the High Court or Court of Session may direct the District Magistrate by himself or by any of the Magistrate subordinate to him to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203, or into the case of any accused person who has been discharged.

Report to High Court.

438.[a] The Court of Session or District Magistrate may, if it or he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the results of such examination, and, when such report contains a recommendation that a sentence be reversed, may order that the execution of such sentence be suspended, and if the accused is in confinement that he be released on bail or on his own bond.

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[a] For restrictions on appeals in Upper Burma, see Reg. VII of 1886, Sch., s. XV; but as to European British subjects, see s. XXII, *ib.*

439. In the case of any proceeding the record of which has been called for by itself, or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428, or on a Court by section 338, and may enhance the sentence; and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429. High Court's powers of revision.

No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

Nothing in this section applies to an entry made under section 273, or shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision: Optional with Court to hear parties.

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, paragraph 2.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds Statement by Presidency Magistrate of grounds of his decision.

to be considered by High Court.

of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before over-ruling or setting aside the said decision or order.

High Court's order to be certified to lower Court or Magistrate.

442. When a case is revised under this chapter by the High Court, it shall certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and if necessary, the record shall be amended in accordance therewith.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

Criminal Proceedings against Europeans and Americans.

Magistrates who may inquire into and try charges against European British subjects.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a [a]District Magistrate or[a] Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

Sessions Judge to be an European British subject. Assistant Sessions Judge to

444. No Judge presiding in a Court of Session, [a]except the Sessions Judge,[a] shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, if he is an Assistant Sessions Judge, unless he has held the office

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a-a These words in ss. 443, 444 and 446 have been added by Act III of 1884, ss. 3, 4 and 5.

of Assistant Sessions Judge for at least three years, and has been specially empowered in this behalf by the Local Government.

have held office for three years and to be specially empowered.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Cognizance of offence committed by European British subject.

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a [a]District Magistrate or[a] Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both, [a]and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.[a]

Sentences which may be passed by Provincial Magistrates.

447. When an European British subject is accused of an offence before a Magistrate, and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

When commitment is to be to Court of Session and when to High Court

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a-a These words in ss. 443, 444 and 446 have been added by Act III of 1884, ss. 3, 4 and 5.

When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

Trial of offences of which one is, and the others are not, punishable with death or transportation for life.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences.

Sentences which may be passed by Court of Session.

449. Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both.

Procedure when Sessions Judge finds his powers inadequate.

If, at any time after the commitment and before signing judgment, the presiding Judge thinks that the offence which appears to be proved cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

450. [*Procedure when Sessions Judge is not an European British subject.*] *Rep. by Act III of* 1884, s. 6.

Jury or assessors before High Court or Court of Session.

451.[a] (1) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be

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[a] S. 451 has been substituted by Act III of 1884, s. 7.

by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

451A.[a] (1) In trials of European British subjects before a District Magistrate, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 451. *Right of European British subject to claim jury before District Magistrate.*

(2) If a claim is made under sub-section (1) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

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a S. 451A has been added by Act III of 1884, s. 8.

(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by that sub-section, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.

Transfer to another Court in certain cases.

451B.[a] (1) If an accused person claims to be tried by jury under section 451A, and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 451 cannot be constituted for the trial before himself, or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under section 451A, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

(2) When a case is transferred under this section

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[a] S. 451B has been added by Act III of 1884, s. 8.

to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under section 451A.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately: Trial of European British subject and native jointly accused.

Provided that, if the European British subject requires under section 451 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII. When Native may claim separate trial.

453. When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him. Procedure on claim of person to be dealt with as European British subject.

When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court

shall, after such further enquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

When the Court before which any person is tried decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

454. If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject and shall not assert it in any subsequent stage of the same case.

Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

Trial under this chapter of person not an European British subject.

455. Where a person who is not an European British subject is dealt with as such under this chapter, and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

Right of European British subject unlawfully detained to apply for order to be brought

456. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may apply to the High Court which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained or to which he would be entitled

to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

before High Court.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

Procedure on such application.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor-General in Council may direct.

Territories throughout which High Court may issue such orders.

459. Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor-General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons be not expressly referred to therein.

Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed by this chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate [a]or any Judge presiding in a Court of Session[a], not being a Justice of the Peace.[b]

460. In every case triable by jury or with the aid of assessors, in which an European (not being an Eu-

Jury for trial of Europeans or Americans.

a-a These words in s. 459 have been inserted by Act III of 1884, s. 9.

b Certain words of s. 459, repealed by Act III of 1884, s. 9, have here been omitted.

ropean British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable and if such European or American so claims, be Europeans or Americans.

Jury when European or American charged jointly with one of another race.

461. Whenever an European or American is charged before the Court of Session jointly with a person not an European or American, and in compliance with a claim made under section 460 is tried by a jury, or with the aid of a set of assessors, of which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

Summoning and empanelling jurors under section 451, 451A, 451B or 460.

462. When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 451 or section 460, [a]or before the Court of a District Magistrate or Sessions Judge proceeding under section 451A or 451B,[a] the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

The Court shall also, at the same time, in like manner, cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

From the whole number of persons returned, the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained :

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a-a These words in s. 462 have been added by Act III of 1884, s. 10.

Provided that, in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code. Conduct of criminal proceedings against European British subjects, &c.

CHAPTER XXXIV.

LUNATICS.

464. When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing. Procedure in case of accused being lunatic.

If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall postpone further proceedings in the case.

465. If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapa- Procedure in case of person committed before Court of Session or High Court being lunatic.

city, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

Release of lunatic pending investigation or trial.

466. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Custody of lunatic.

If the case is one in which bail may not be taken or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, and the Local Government may order the accused to be confined in a lunatic asylum or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

Resumption of inquiry or trial.

467. Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused

468. If, when the accused appears or is again brought before the Magistrate or the Court, as the

case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed. *appearing before Magistrate or Court.*

If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

When accused appears to have been insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment of acquittal on ground of lunacy.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence he was by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on such ground to be kept in safe custody.

471. Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

The Local Government may order such person to

be confined in a lunatic asylum, jail or other suitable place of safe custody.

Lunatic prisoners to be visited by Inspector General.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail or the visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Procedure where lunatic prisoner is reported capable of making his defence.

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.

474. If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence

as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

Delivery of lunatic to care of relative.

475. Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

Power of Governor-General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

475A.[a] The Governor-General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.

Power of Local Government to relieve Inspector General of cer-

475B.[a] The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or section 471 to discharge all or any of the functions of the

[a-a] Ss. 475A and 475B have been inserted by Act X of 1886, s. 12.

tain functions.

Inspector General of Prisons under section 472, section 473 or section 474.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

Procedure in cases mentioned in section 195.

476. When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195, and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

Such Magistrate shall thereupon proceed according to law, and may, if he is authorized under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

Power of Court of Session as to such offences committed before itself.

477. Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred to in section 195 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge.

Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

Power of Civil and Revenue Courts to complete in-

478. When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable ex-

clusively by the High Court or Court of Session, or such Civil or Revenue Court think that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be. vestigation and commit to High Court or Court of Session.

For the purposes of an inquiry under this section the Civil or Revenue Court may, subject to the provisions of section 443, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorized to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence. Procedure of Civil Revenue Court in such cases.

480. When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (XLV of 1860), is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, whether he is an European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid. Procedure in certain cases of contempt.

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Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

Record in such cases.

481. In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code (XLV of 1860), the record must show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

Procedure where Court considers that case should not be dealt with under section 480.

482. If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as herein before provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, shall forward such person under custody to such Magistrate.

The Magistrate to whom any case is forwarded under this section shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

483. When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877 (III of 1877), shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

484. When any Court has under section 480 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction. Discharge of offender on submission apology.

485. If any witness before a Criminal Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt. Imprisonment or committal of person refusing to answer or produce document.

486. Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable. Appeals from convictions in contempt cases.

The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the presidency-towns, to the High Court.

Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

487.[a] Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court, the Recorder of Rangoon and the Presidency Magistrates, shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court, or shall prevent a Presidency Magistrate from himself disposing of any case instead of sending it for inquiry to another Magistrate.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

Order for maintenance of wives and children.

488. If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the

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[a] As to power of Judges and Magistrates in Upper Burma to try offences referred to in s. 195 when committed before themselves, &c., see Reg., VII of 1886, Sch., s. XVII.

District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month: Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty. Proviso.

No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuse to live with her husband, or that they are living separately

by mutual consent, the Magistrate shall cancel the order.

All evidence under this chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases.

Alteration in allowance.

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

Enforcement of order of maintenance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *HABEAS CORPUS*.

Power to issue directions of the nature of a *habeas corpus*.

491. Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any commission from the Governor-General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

Nothing in this section applies to persons detained under Bengal Regulation III of 1818, Madras Regulation II of 1819 or Bombay Regulation XXV of 1827, or the Acts of the Governor-General in Council No. XXXIV of 1850 or No. III of 1858.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

Power to appoint Public Prosecutors.

492. The Governor-General in Council or the Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Subdivisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders, privately instructed, to be under his direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal; and, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

Effect of withdrawal from prosecution.

494. Any Public Prosecutor appointed by the Governor-General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person; and, upon such withdrawal,—

(a) if it is made before a charge has been framed, the accused shall be discharged;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

495.[a] Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor-General in Council.[a] Permission to conduct prosecution.

Any person conducting the prosecution may do so personally or by a pleader.

[b]An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.[b]

CHAPTER XXXIX.

OF BAIL.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Bail to be taken in case of bailable offence.

Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such per-

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a-a The first sentence of s. 495 has been substituted by Act X of 1886, s. 13 (1).

b-b This para. of s. 495 has been added by Act X of 1886, s. 13 (2).

As to conduct of prosecutions by police-officers in Upper Burma, notwithstanding anything in s. 495, see Reg. VII of 1886, Sch., s. XVIII.

son, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

When bail may be taken in case of non-bailable offence.

497. When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

Direct admission to bail or reduction of bail.

498. The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

Bond of accused and sureties.

499. Before any person is released on bail or released on his own bond, a bond for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more

sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

500. As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and when he is in jail the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him. Discharge from custody.

Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and on his failing so to do may commit him to jail. Power to order sufficient bail when that first taken is insufficient.

502. All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants. Discharge of sureties.

On such application being made the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either

wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

When attendance of witness may be dispensed with.

503. Whenever, in the course of an inquiry, a trial or any other proceeding under this code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate, or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

Issue of commission, and procedure thereunder.

When the witness resides in the dominions of any Prince or state in alliance with Her Majesty in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

Commission in case of

504. If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the

Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself. *witness being within presidency-town.*

Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the thirty-ninth and fortieth of Victoria, chapter 46, section 3.

505. The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed shall examine the witness upon such interrogatories. *Parties may examine witnesses.*

Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience, which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application. *Power of Provincial Subordinate Magistrate to apply for issue of commission.*

507. After any commission issued under section 503 or section 506 has been duly executed, it shall be *Return of commission.*

returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

Adjournment of inquiry or trial.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLI.

SPECIAL RULES OF EVIDENCE.

Deposition of medical witness.

509. The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, may be given in evidence in any inquiry, trial or other proceeding under this Code although the deponent is not called as a witness.

Power to summon medical witness.

The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Report of Chemical Examiner.

510. Any document purporting to be a report under the hand of any[a] Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

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[a] The word "any" in s. 510 has been substituted by Act X of 1886, s. 14.

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,— Previous conviction or acquittal how proved.

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. If it be proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into or trial for the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable. Record of evidence in absence of accused.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

Deposit instead of recognizance.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

514. Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person.

Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate [a]or Chief Presidency Magistrate[a] within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which

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a-a These words in s. 514 have been inserted by Act X of 1886, s 4.

issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him. Appeal from, and revision of, orders under section 514.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session. Power to direct levy of amount due on certain recognizances.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

517. When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal of any document or other property produced before it regarding which any offence appears to have been committed, or which has been used for the commission of any offence. Order for disposal of property regarding which offence committed.

When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is livestock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

EXPLANATION.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to District or Subdivisional Magistrate.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Subdivisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 517, 518 or 511.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order.

Destruction of libellous

521. On a conviction under the Indian Penal Code (XLV of 1860), section 292, section 293, section

501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted. *and other matter.*

The Court may, in like manner, on a conviction under the Indian Penal Code section 272, section 273, section 274, or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

Power to restore possession of immoveable property.

522. Whenever a person is convicted of an offence attended by criminal force, and it appears to the Court that by such force any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

Procedure by police upon seizure of property taken under section 51 or stolen.

523. The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or, if such person connot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before him and establish his claim within six months from the date of such proclamation.

Procedure where no claimant appears within six months.

524. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Subdivisional Magistrate, or of a Magistrate of the first class empowered by the Local Government in this behalf.

In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

Power to sell perishable property.

525. If the person entitled to the possession of such property is unknown or absent, and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

High Court may transfer case, or itself try it.

526. Whenever it is made to appear to the High Court—

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

(*e*)[a] that such an order is expedient for the ends of justice,

it may order—

(1) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence ;

(2) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction ;

(3) that any particular criminal case or appeal be transferred to and tried before itself; or

(4)[a] that an accused person be committed for trial to itself or to a Court of Session.

When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

Every application for the exercise of the power conferred by this section shall be made by motion which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

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a-a Cl. (*e*) and subs. (4) of s. 526 have been added by Act III of 1884, s. 11.

Notice to Public Prosecutor of application under this section.

Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Nothing in this section shall be deemed to affect any order made under section 197.

Adjournment on application under section 526

526A.[a] If, in any criminal case or appeal, before the commencement of the hearing, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under section 526 in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal.

Power of Governor-General in Council to transfer criminal cases and appeals.

527. The Governor-General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

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[a] S. 526A has been inserted by Act III of 1884, s. 12.
As to adjournment on application for transfer of cases in Upper Burma, see Reg. VII of 1886, Sch., s. XIX.

528. Any District Magistrate or Subdivisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

District or Subdivisional Magistrate may withdraw or refer cases.

The Local Government may authorize the District Magistrate to withdraw from the Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

Power to authorize District Magistrate to withdraw classes of cases.

[a]A Magistrate making an order under this section shall record in writing his reason for making the same.[a]

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

529. If any Magistrate not empowered by law to do any of the following things, namely :—

Irregularities which do not vitiate proceedings.

(*a*) to issue a search-warrant under section 98 ;

(*b*) to order, under section 155, the police to investigate an offence ;

(*c*) to hold an inquest under section 176 ;

(*d*) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits ;

(*e*) to take cognizance of an offence under section 191, clause (*a*) or clause (*b*) ;

(*f*) to transfer a case under section 192 ;

(*g*) to tender a pardon under section 337 or section 338 ;

(*h*) to sell property under section 524 or section 525 ; or

a-a The last para. of s. 528 has been added by Act III of 1884, s. 13.

(*i*) to withdraw a case and try it himself under section 528;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 88;

(*b*) issues a search-warrant for a letter in the Post-office, or a telegram in the Telegraph Department;

(*c*) demands security to keep the peace;

(*d*) demands security for good behaviour;

(*e*) discharges a person lawfully bound to be of good behaviour;

(*f*) cancels a bond to keep the peace;

(*g*) makes an order, under section 133, as to a local nuisance;

(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance;

(*i*) issues an order under section 144;

(*j*) makes an order under Chapter XII;

(*k*) takes cognizance, under section 191, clause (*c*), of an offence;

(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate;

(*m*) calls, under section 435, for proceedings;

(*n*) makes an order for maintenance;

(*o*) revises, under section 515, an order passed under section 514;

(*p*) tries an offender;

(q) tries an offender summarily; or

(r) decides an appeal;

his proceedings shall be void.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed took place in a wrong sessions division, district, subdivision or other local area, unless it appears that such error occasioned a failure of justice. Proceedings in wrong place.

532. If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless, during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority. When irregular commitments may be validated.

If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

533. If any Court before which a confession or other statement of an accused person recorded under section 164 or section 364 is tendered in evidence finds that the provisions of such section have not been fully complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding anything contained in the Indian Evidence Act (I of 1872), section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits. Non-compliance with provisions of section 164 or section 364.

Omission to ask question prescribed by section 454, clause 2.

534. An omission to ask any person whether he is an European British subject, in a case to which the second clause of section 454 applies, shall not affect the validity of any proceeding.

Effect of omission to prepare charge.

535. No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed unless, in the opinion of the Court of appeal or revision, a failure of justice has been occasioned thereby.

If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge shall be framed, and that the trial be re-commenced from the point immediately after the framing of the charge.

Trial by jury of offence triable with assessors.

536. If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

Trial with assessors of offence triable by jury.

If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

537. [a]Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or an appeal or revision on account—

of any error omission or irregularity in the complaint, summons, warrant, charge, judgment or other proceedings, before or during trial or in any inquiry or other proceeding under this Code, or

of the want of any sanction required by section 195, or

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[a] In Upper Burma orders are not reversible on appeal or revision to technical grounds alone—see Reg. VII of 1886, Sch., s. XX; but as no European British subjects, see s. XXII, *ib.*

of the omission to revise any list of jurors or assessors in accordance with section 324, or

of any misdirection in any charge to a jury; unless such error, omission, irregularity, want or misdirection has occasioned a failure of justice.

538. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

CHAPTER XLVI.

MISCELLANEOUS.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in Chancery in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

Courts and persons before whom affidavits may be sworn.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Power to summon material witness, or examine person present.

541. Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place any person liable to be im-

Power to appoint place of imprisonment.

prisoned or committed to custody under this Code shall be confined.

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

541A. (*1*) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(*2*) When a person is removed to a criminal jail under sub-section (*1*), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure (XIV of 1882); or

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination

542. Notwithstanding any thing contained in the Prisoners' Testimony Act, 1869 (XV of 1869) any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

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[a] S. 541A has been inserted by Act X of 1886, s. 15.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement. Interpreter to be bound to interpret truthfully.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor-General in Council, any Criminal Court may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code. Expenses of complainants and witnesses.

545. Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may when passing judgment order the whole or any part of the fine recovered to be applied— Power of Court to pay expenses or compensation out of fine.

(*a*) in defraying expenses properly incurred in the prosecution;

(*b*) in compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.

If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545. Payments to be taken into account in subsequent suit.

547. Any money (other than a fine) payable by virtue of any order made under this Code shall be recoverable as if it were a fine. Moneys ordered to be paid recoverable as fines.

Copies of proceedings.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith:

Provided that he pay for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Delivery to Military authorities of persons liable to be tried by Court-martial.

549. The Governor-General in Council may make rules, consistent with this Code and the Army Act, (44 & 45 Vict., cap. 58,) [a]or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies or by Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act, [a]section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

Apprehension of such persons.

Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers of superior officers of police.

550. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed as may be exercised by such officer within the limits of his station.

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a-a Year repealed by Act XII of 1891, 1st Sch.

551. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Power to compel restoration of abducted females.

552. Whenever any person causes a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to persons groundlessly given in charge in presidency-town.

In such cases, if more persons than one are arrested[a] the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

553. With the previous sanction of the Governor-General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

Power of chartered High Courts to make rules for inspection of records of subordinate Courts.

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[a] Words here repealed by Act IV of 1891, s. 3 omitted.

Power of other High Courts to make rules for other purposes.

Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,—

(*a*) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(*c*)[a] make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

All rules made under this section shall be published in the local official Gazette.

Forms.

554. Subject to the power conferred by section 553, and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

Case in which Judge or Magistrate is personally interested.

555. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or

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[a] In Upper Burma rules under s. 553, cl. (*c*), may regulate fees for processes, and copies and inspection of records—see Reg. VII of 1886, Sch., s. XXI.

in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

EXPLANATION.—A Judge or Magistrate shall not be deemed to be a party or personally interested, within the meaning of this section, to or in any case, merely because he is a Municipal Commissioner.

556. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter. Power to decide language of Courts.

557. All powers conferred by this Code on the Governor-General in Council or on the Local Government may be exercised from time to time as occasion requires. Powers of Governor-General in Council and Local Government exerciseable from time to time.

558. *Repealed by Act No. XII of* 1891, 1*st Sch.*

559.[a] A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property. Officers concerned in sales not to purchase or bid for property.

560. (1) If, in any case instituted by complaint as defined in this Code, or upon information given to a Police-Officer or to a Magistrate, a person is accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is tried discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused Frivolous or vexatious accusations.

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[a] S. 559 has been added by Act X of 1886, s. 16.

where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit:

Provided that, before making any such direction, the Magistrate shall—

(*a*) record and consider any objection which the complainant or informant may urge against the making of the direction, and,

(*b*) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal, his reasons for awarding the compensation.

(2) Compensation of which a Magistrate has ordered payment under sub-section (1) shall be recoverable as if it were a fine:

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(3) A complainant or informant who has been ordered under sub-section (1) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the

Court shall take into account any compensation paid or recovered under this section.—[*Act No. IV of* 1891, *s.* 2.]

561. (1) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall— Special provisions with respect to offence of rape by a husband.

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence :

(2) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a Police-Officer with respect to such an offence as is referred to in sub-section (1) of this section, no Police-Officer of a rank below that of Police Inspector shall be employed either to make, or to take part in, the investigation.—[*Act No. X of* 1891, *s.* 2.]

SCHEDULE I.

(a)—*Statute.*

Year, Reign and chapter.	Title.	Extent of repeal.
13 Geo. III, chapter 63 ...	An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe.	Section 38.

(b)—*Acts of the Governor-General in Council.*

Number and year.	Subject.	Extent of repeal.
XXIII of 1840	Execution of process ...	So much as has not been repealed.
XLV of 1860	Penal Code	The illustrations to section 214.
V of 1861	Police Act	Section 6 and the last nine words of section 24. Section 35, down to and including the words "Provided that".
XVIII of 1862	Criminal Procedure, Supreme Courts.	So much as has not been repealed.
VI of 1864	Whipping	Section 7.
II of 1869	Justices of the Peace ...	So much as has not been repealed.
XXII of 1870	Application to European British subjects of Acts conferring summary jurisdiction.	So much as has not been repealed.
IV of 1872	Punjab Laws	So far as it relates to Bengal Regulation XX of 1825.
X of 1872	The Code of Criminal Procedure	So much as has not been repealed.
XI of 1874	Amending the Code of Criminal Procedure.	The whole.

SCHEDULE I—(*concluded.*)

(*b*)—*Acts of the Governor-General in Council*—(concluded.)

Number and year.	Subject.	Extent of repeal.
XV of 1874	Laws Local Extent ...	So far as it relates to Bengal Regulation XX of 1825.
X of 1875... ...	High Courts' Criminal Procedure.	The whole Act, except section 144 and so much of section 146 as relates to informations.
XX of 1875... ...	Central Provinces Laws ...	So far as it relates to Bengal Regulation XX of 1825.
XVIII of 1876... ...	Oudh Laws	Ditto.
IV of 1877... ...	Presidency Magistrates ...	The whole Act, except section 57.
XXI of 1879... ...	Extradition	Chapter III.
X of 1881... ...	Coroners	Sections 8 and 9.

(*c*)—*Regulations.*

Number and year.	Subject.	Extent of repeal.
Bengal Regulation XX of 1825.	Jurisdiction of Courts-matiral ..	So much as has not been repealed.
III of 1872 ...	Sonthal Pergunnahs Settlement	So far as relates to Act X of 1872.
IX of 1874 ...	Arakan Hills District Laws ...	So far as it relates to Acts II of 1869, X of 1872 and XI of 1874.
III of 1877 ...	Ajmere Laws	So far as it relates to Bengal Regulation XX of 1825.

(*d*)—*Act of the Governor of Fort St. George in Council.*

Number and year.	Subject.	Extent of repeal.
VIII of 1867 ...	Police	Section 9.

SCHEDULE

TABULAR STATEMENT

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, intended as definitions of the offences and punishments described in the several corresponding but merely as references to the subject of the section, the number of which is given in the first The third column of this schedule applies to the

CHAPTER V.—

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	ditto	ditto
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	ditto	ditto
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	ditto	ditto
114	Abetment of any offence, if abettor is present when offence is committed.	ditto	ditto
115	Abetment of an offence, punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	ditto	ditto
	If an act which causes harm be done in consequence of the abetment.	ditto	ditto
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	ditto	ditto
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	ditto	ditto
117	Abetting the commission of an offence by the public, or by more than ten persons.	ditto	ditto
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	ditto	ditto
	If the offence be not committed.	ditto	ditto

II.

OF OFFENCES.

headed respectively "Offence" and "Punishment under the Indian Penal Code", are not sections of the Indian Penal Code (XLV of 1860), or even as abstracts of those sections, column.

Police in the towns of Calcutta and Bombay.

ABETMENT.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
ditto	ditto	ditto	ditto
ditto	ditto	The same punishment as for the offence intended to be abetted.	ditto
ditto	ditto	The same punishment as for the offence committed.	ditto
ditto	ditto	ditto	ditto
Not bailable.	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 14 years and fine.	ditto
According as the offence abetted is bailable or not.	ditto	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	ditto
ditto	ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	ditto
Not bailable.	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	ditto

CHAPTER V.—

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.
	If the offence be punishable with death or transportation for life.	ditto	ditto
	If the offence be not committed.	ditto	ditto
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	ditto	ditto
	If the offence be not committed	ditto	ditto

CHAPTER VI.—OFFENCES

121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant.
121A	Conspiring to commit certain offences against the State.	ditto	ditto
122	Collecting arms, &c., with the attention of waging war against the Queen.	ditto	ditto
123	Concealing with intent to facilitate a design to wage war.	ditto	ditto
124	Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	ditto	ditto
124A	Exciting, or attempting to excite, disaffection.	ditto	ditto
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	ditto	ditto
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen	ditto	ditto

ABETMENT.—(*concluded.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence abetted is triable.
Not bailable.	ditto	Imprisonment of either description for 10 years.	ditto
According as the offence abetted is bailable or not.	ditto	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	ditto

AGAINST THE STATE.

Not bailable.	Not compoundable.	Death, or transportation for life, and forfeiture of property.	Court of Session.
ditto	ditto	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine	ditto
ditto	ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	ditto

CHAPTER VI.—OFFENCES

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Shall not arrest without warrant.	Warrant.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	ditto	ditto
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	ditto	ditto
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	ditto	ditto

CHAPTER VII.—OFFENCES RELATING

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	ditto	ditto
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	ditto	ditto
134	Abetment of such assault, if the assault is committed.	ditto	ditto
135	Abetment of the desertion of an officer, soldier or sailor.	ditto	ditto
136	Harbouring such an officer, soldier or sailor who has deserted.	ditto	ditto
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons.
138	Abetment of act of insubordination of an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	ditto	Summons.

AGAINST THE STATE—(*concluded.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Court of Session.
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	ditto
Bailable. ...	ditto	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
Not bailable.	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

TO THE ARMY AND NAVY.

Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
ditto	ditto	Death, or transportation for life, or imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
Bailable.	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	Fine of 500 rupees	ditto
ditto	ditto	Imprisonment of either description for 6 months, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST

1 Section	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
143	Being member of an unlawful assembly. ...	May arrest without warrant.	Summons.
144	Joining an unlawful assembly armed with any deadly weapon.	ditto	Warrant.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	ditto	ditto
147	Rioting	ditto	ditto
148	Rioting, armed with a deadly weapon ...	ditto	ditto
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	ditto	Summons.
152	Assaulting or obstructing public servant when suppressing riot, &c.	ditto	Warrant.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	ditto	ditto
	If not committed	ditto	Summons.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	ditto
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	ditto	ditto
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	ditto	ditto

THE PUBLIC TRANQUILLITY.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
According as the offence is bailable or not.	ditto	The same as for the offence.	The Court by which the offence is triable.
ditto	ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	ditto
Bailable ...	ditto	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 1 year, or fine, or both	Any Magistrate.
ditto	ditto	Imprisonment of either description for 6 months, or fine, or both.	ditto
ditto	ditto	Fine of 1,000 rupees	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Fine	ditto
ditto	ditto	ditto	ditto

CHAPTER VIII.—OFFENCES AGAINST

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Summons.
158	Being hired to take part in an unlawful assembly or riot.	ditto	ditto
	Or to go armed	ditto	Warrant.
160	Committing affray.	Shall not arrest without warrant.	Summons.

CHAPTER IX.—OFFENCES BY OR

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	ditto	ditto
163	Taking a gratification for the exercise of personal influence with a public servant.	ditto	ditto
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	ditto	ditto
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	ditto	ditto
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	ditto	ditto
167	Public servant framing an incorrect document with intent to cause injury.	ditto	ditto
168	Public servant unlawfully engaging in trade.	ditto	ditto
169	Public servant unlawfully buying or bidding for property.	ditto	ditto
170	Personating a public servant.	May arrest without warrant.	Warrant.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	ditto	Summons.

THE PUBLIC TRANQUILLITY—(*concluded.*)

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

RELATING TO PUBLIC SERVANTS.

Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	ditto	ditto
ditto	ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Simple imprisonment for 1 year, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Simple imprisonment for 1 year, or fine or both.	Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
ditto	ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	ditto

CHAPTER X.—CONTEMPTS OF THE LAWFUL

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons.
	If summons or notice require attendance in person, &c., in a Court of Justice.	ditto	ditto
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	ditto	ditto
	If summons, &c., require attendance in person, &c., in a Court of Justice.	ditto	ditto
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	ditto	ditto
	If the order require personal attendance, &c , in a Court of Justice.	ditto	ditto
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	ditto	ditto
	If the document is required to be produced in or delivered to a Court of Justice.	ditto	ditto
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	ditto	ditto
	If the notice or information required respects the commission of an offence, &c.	ditto	ditto
177	Knowingly furnishing false information to a public servant.	ditto	ditto
	If the information required respects the commission of an offence, &c.	ditto	ditto
178	Refusing oath when duly required to take oath by a public servant.	ditto	ditto

AUTHORITY OF PUBLIC SERVANTS.

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
ditto	ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
ditto	ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.

CHAPTER X.—CONTEMPTS OF THE LAWFUL

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
179	Being legally bound to state truth, and refusing to answer questions.	Shall not arrest without warrant.	Summons.
180	Refusing to sign a statement made to a public servant when legally required to do so.	ditto	ditto
181	Knowingly stating to a public servant on oath as true that which is false.	ditto	Warrant.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	ditto	Summons.
183	Resistance to the taking of property by the lawful authority of a public servant.	ditto	ditto
184	Obstructing sale of property offered for sale by authority of a public servant.	ditto	ditto
185	Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	ditto	ditto
186	Obstructing public servant in discharge of his public functions.	ditto	ditto
187	Omission to assist public servant when bound by law to give such assistance.	ditto	ditto
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	ditto	ditto
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	ditto	ditto
	If such disobedience causes danger to human life, health or safety, &c.	ditto	ditto
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	ditto	ditto

AUTHORITY OF PUBLIC SERVANTS—(*continued.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	ditto
ditto	ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	ditto
ditto	ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	ditto
ditto	ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	ditto
ditto	ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	ditto
ditto	ditto	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	ditto
ditto	ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	ditto
ditto	ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto

CHAPTER X.—CONTEMPTS OF THE LAWFUL

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Shall not arrest without warrant.	Summons.

CHAPTER XI.—FALSE EVIDENCE AND

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant.
	Giving or fabricating false evidence in any other case.	ditto	ditto
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	ditto	ditto
	If innocent person be thereby convicted and executed.	ditto	ditto
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for seven years or upwards.	ditto	ditto
196	Using in a judicial proceeding evidence known to be false or fabricated.	ditto	ditto
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	ditto	ditto
198	Using as a true certificate one known to be false in a material point.	ditto	ditto
199	False statement made in any declaration which is by law receivable as evidence.	ditto	ditto
200	Using as true any such declaration known to be false.	ditto	ditto
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	ditto	ditto
	If punishable with transportation for life or imprisonment for 10 years.	ditto	ditto

AUTHORITY OF PUBLIC SERVANTS—(*concluded.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

OFFENCES AGAINST PUBLIC JUSTICE.

Bailable. ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 3 years and fine.	ditto
Not bailable.	ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
ditto	ditto	Death, or as above	ditto
ditto	ditto	The same as for the offence ...	ditto
According as the offence of giving such evidence is bailable or not.	ditto	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
Bailable.	ditto	The same as for giving false evidence.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XI.—FALSE EVIDENCE AND

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
	If punishable with less than 10 years' imprisonment.	Shall not arrest without warrant.	Warrant.
202	Intentional omission to give information of an offence by a person legally bound to inform.	ditto	Summons.
203	Giving false information respecting an offence committed.	ditto	Warrant.
204	Secreting or destroying any document to prevent its production as evidence.	ditto	ditto
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	ditto	ditto
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	ditto	ditto
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	ditto	ditto
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	ditto	ditto
209	False claim in a Court of Justice.	ditto	ditto
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	ditto	ditto
211	False charge of offence made with intent to injure.	ditto	ditto
	*a*If offences charged be punishable with imprisonment for seven years.	ditto	ditto

a a This part of entry 211 has been

OFFENCES AGAINST PUBLIC JUSTICE—(*continued.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable ...	Not compoundable.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, of fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
ditto	ditto	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	ditto	Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	ditto	Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 2 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.[a]

inserted by Act X of 1886, s. 17.

CHAPTER XI.—FALSE EVIDENCE AND

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
	If offence charged be capital, or punishable with transportation for life, or with imprisonment for a term exceeding 7 years.	Shall not arrest without warrant.	Warrant.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	ditto
	If punishable with transportation for life, or with imprisonment for 10 years.	ditto	ditto
	If punishable with imprisonment for 1 year and not for 10 years.	ditto	ditto
13	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	ditto
	If punishable with transportation for life, or with imprisonment for 10 years.	ditto	ditto
	If with imprisonment for less than 10 years.	ditto	ditto
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	ditto	ditto
	If punishable with transportation for life, or with imprisonment for 10 years.	ditto	ditto
	If with imprisonment for less than 10 years.	ditto	ditto
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	ditto	ditto

OFFENCES AGAINST PUBLIC JUSTICE—(*continued.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 3 years and fine.	ditto
ditto	ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

CHAPTER XI.—FALSE EVIDENCE AND

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Warrant. ...
	If punishable with transportation for life, or with imprisonment for 10 years.	ditto	ditto
	If with imprisonment for 1 year, and not for 10 years.	ditto	ditto
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	ditto	Warrant.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	ditto	ditto
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	ditto	ditto
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	ditto	ditto
	If punishable with transportation for life, or imprisonment for 10 years.	ditto	ditto
	If with imprisonment for less than 10 years.	ditto	ditto
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	ditto	ditto
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	ditto	ditto

OFFENCES AGAINST PUBLIC JUSTICE—(*continued.*)

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 3 years, with or without fine.	ditto
ditto	ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years, or fine, or both.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 7 years, with or without fine.	ditto
ditto	ditto	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
Not bailable.	ditto	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years, with or without fine.	ditto

CHAPTER XI.—FALSE EVIDENCE AND

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
	If under sentence or imprisonment for less than 10 years, or lawfully committed to custody.	Shall not arrest without warrant.	Warrant.
223	Escape from confinement negligently suffered by a public servant.	ditto	Summons.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	ditto	ditto
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	ditto	ditto
	If charged with a capital offence	ditto	ditto
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	ditto	ditto
	If under sentence of death.	ditto	ditto
225A[a]	Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for—		
	(a) in case of intentional omission or sufferance.	Shall not arrest without warrant.	ditto
	(b) in case of negligent omission or sufferance ;	ditto	Summons.
225B[a]	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant.

[a] Entries 225A and 225B have been

OFFENCES AGAINST PUBLIC JUSTICE—(*continued.*)

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	ditto	ditto
Not bailable.	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
ditto	ditto	ditto	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	ditto
Bailable.	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 6 months, or fine, or both.	ditto

substituted by Act X of 1886, s. 18.

CHAPTER XI.—FALSE EVIDENCE AND

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
226	Unlawful return from transportation.	May arrest without warrant.	Warrant.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	ditto	ditto
229	Personation of a juror or assessor.	ditto	ditto

CHAPTER XII.—OFFENCES RELATING TO

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	ditto	ditto
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	ditto	ditto
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	ditto	ditto
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	ditto	ditto
	If Queen's coin	ditto	ditto
236	Abetting in British India the counterfeiting out of British India of coin.	ditto	ditto
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	ditto	ditto

OFFENCES AGAINST PUBLIC JUSTICE—(*concluded.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable.	Not compoundable.	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Court of Session.
ditto	ditto	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
Bailable. ...	ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

COIN AND GOVERNMENT STAMPS.

Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
ditto	ditto	The punishment provided for abetting the counterfeiting of such coin within British India.	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XII.—OFFENCES RELATING TO

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant. ...
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	ditto	ditto
240	The same with respect to the Queen's coin.	ditto	ditto
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	ditto	ditto
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	ditto	ditto
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	ditto	ditto
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	ditto	ditto
245	Unlawfully taking from a Mint any coining instrument.	ditto	ditto
246	Fraudulently diminishing the weight or altering the composition of any coin.	ditto	ditto
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	ditto	ditto
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	ditto	ditto
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	ditto	ditto
250	Delivery to another of coin possessed with the knowledge that it is altered.	ditto	ditto
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	ditto	ditto

COIN AND GOVERNMENT STAMPS—(*continued.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	ditto	Court of Session.
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 5 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto

CHAPTER XII.—OFFENCES RELATING TO

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	May arrest without warrant.	Warrant.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	ditto	ditto
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	ditto	ditto
255	Counterfeiting a Government stamp.	ditto	ditto
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	ditto	ditto
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp	ditto	ditto
258	Sale of counterfeit Government stamp.	ditto	ditto
259	Having possession of a counterfeit Government stamp	ditto	ditto
260	Using as genuine a Government stamp known to be counterfeit.	ditto	ditto
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	ditto	ditto
262	Using a Government stamp known to have been before used.	ditto	ditto
263	Erasure of mark denoting that stamp has been used.	ditto	ditto

COIN AND GOVERNMENT STAMPS—(*concluded.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Not bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 5 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.
Bailable. ...	ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 7 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XIII.—OFFENCES RELATING

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons.
265	Fraudulent use of false weight or measure.	ditto	ditto
266	Being in possession of false weights or measures for fraudulent use.	ditto	ditto
267	Making or selling false weights or measures for fraudulent use	ditto	ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	ditto	ditto
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	ditto
272	Adulterating food or drink intended for sale, so as to make the same noxious.	ditto	ditto
273	Selling any food or drink as food and drink, knowing the same to be noxious.	ditto	ditto
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	ditto	ditto
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	ditto	ditto
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	ditto	ditto
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	ditto
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	ditto
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	ditto

TO WEIGHTS AND MEASURES.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto

HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

Bailable. ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 6 months, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
ditto	ditto	Fine of 500 rupees	ditto
ditto	ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC

1 Section	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Summons.
281	Exhibition of a false light, mark or buoy.	ditto	Warrant.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	ditto	Summons.
283	Causing danger, obstruction or injury in any public way or line of navigation.	ditto	ditto
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	ditto
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	ditto
286	So dealing with any explosive substance ...	ditto	ditto
287	So dealing with any machinery	Shall not arrest without warrant.	ditto
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	ditto	ditto
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	ditto
290	Committing a public nuisance.	Shall not arrest without warrant.	ditto
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	ditto
292	Sale, &c., of obscene books, &c.	ditto	Warrant.
293	Having in possession obscene books, &c., for sale or exhibition.	ditto	ditto
294	Obscene songs	ditto	ditto
294 A	Keeping a lottery office	Shall not arrest without warrant.	Summons.

HEALTH, SAFETY, CONVENIENCE, DECENCY & MORALS—*contd.*

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable.
Bailable. ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both,	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
ditto	ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Fine of 200 rupees.	ditto
ditto	ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	ditto
ditto	ditto	ditto	Any Magistrate.
ditto	ditto	ditto	ditto
ditto	ditto	ditto	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	ditto	Any Magistrate.
ditto	ditto	Fine of 200 rupees	ditto
ditto	ditto	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 3 months, or fine, or both.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

CPAPTER XIV.—OFFENCES AFFECTING THE PUBLIC

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
	Publishing proposals relating to lotteries ...	Shall not arrest without warrant.	Summons.

CHAPTER XV.—OFFENCES

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons.
296	Causing a disturbance to an assembly engaged in religious worship.	ditto	ditto
297	Trespassing in place of worship or sepulchre, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	ditto	ditto
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	ditto

CHAPTER XVI.—OFFENCES AFFECTING

Of Offences

302	Murder	May arrest without warrant.	Warrant.
303	Murder by a person under sentence of transportation for life.	ditto	ditto
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	ditto	ditto
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	ditto	ditto
304A	Causing death by rash or negligent act. ...	ditto	ditto
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	ditto	ditto
306	Abetting the commission of suicide ...	ditto	ditto
307	Attempt to murder	ditto	ditto

HEALTH, SAFETY, CONVENIENCE, DECENCY & MORALS—*concld.*

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable.	Not compoundable.	Fine of 1,000 rupees	Any Magistrate.
RELATING TO RELIGION.			
Bailable. ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 1 year, or fine, or both.	ditto
ditto	ditto	ditto	ditto
ditto	Compoundable.	ditto	ditto
THE HUMAN BODY. *affecting Life.*			
Not bailable.	Not compoundable.	Death, or transportation for life, and fine.	Court of Session.
ditto	ditto	Death	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years, or fine, or both.	ditto
Bailable ...	ditto	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
Not bailable. ...	ditto	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	ditto	ditto

CHAPTER XVI.—OFFENCES AFFECTING

Of Offences

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
	If such act cause hurt to any person ...	May arrest without warrant.	Warrant. ...
	Attempt by life-convict to murder, if hurt is caused.	ditto	ditto
308	Attempt to commit culpable homicide ...	ditto	ditto
	If such act cause hurt to any person ...	ditto	ditto
309	Attempt to commit suicide	ditto	ditto
311	Being a thug	ditto	ditto

Of the Causing of Miscarriage; of Injuries to Unborn Children;

312	Causing miscarriage	Shall not arrest without warrant.	Warrant.
	If the woman be quick with child	ditto	ditto
313	Causing miscarriage without woman's consent.	ditto	ditto
314	Death caused by an act done with intent to cause miscarriage.	ditto	ditto
	If act done without woman's consent ...	ditto	ditto
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth	ditto	ditto
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	ditto	ditto
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	ditto
318	Concealment of birth by secret disposal of dead body.	ditto	ditto

THE HUMAN BODY—(*continued.*)

affecting Life—concluded.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable. ...	Not compoundable.	Transportation for life, or as above ...	Court of Session.
ditto	ditto	Death, or as above	ditto
Bailable ...	ditto	Imprisonment of either description for 3 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 7 years, or fine, or both.	ditto
ditto	ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
Not bailable.	ditto	Transportation for life and fine ...	Court of Session.

of the Exposure of Infants; and of the Concealment of Births.

Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
Not bailable.	ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Transportation for life, or as above ...	ditto
ditto	ditto	Imprisonment of either description for 10 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
Bailable.	ditto	Imprisonment of either description for 7 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVI.—OFFENCES AFFECTING

Of

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
323	Voluntarily causing hurt	Shall not arrest without warrant.	Summons.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	ditto
325	Voluntarily causing grievous hurt	ditto	ditto
326	Voluntarily causing grievous hurt by dangerous weapons or means.	ditto	ditto
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	ditto	Warrant.
328	Administering stupefying drug with intent to cause hurt, &c.	ditto	ditto
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	ditto	ditto
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	ditto	ditto
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	ditto	ditto
332	Voluntarily causing hurt to deter pnblic servant from his duty.	ditto	ditto
333	Voluntarily causing grievous hurt to deter public servant from his duty.	ditto	ditto
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons.

THE HUMAN BODY—(*continued.*)

Hurt.

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable. ...	Compoundable.	Imprisonment of either description for 1 year or fine of 1,000 rupees, or both.	Any Magistrate.
ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	Not compoundable.	Imprisonment of either description for 7 years and fine.	ditto
Not bailable.	ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
ditto	ditto	ditto	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	ditto
Bailable.	ditto	Imprisonment of either description for 7 years and fine.	ditto
Not bailable.	ditto	Imprisonment of either description for 10 years and fine.	ditto
Bailable.	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
Not bailable.	ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
Bailable.	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING

Of

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	May arrest without warrant.	Summons.
336	Doing any act which endangers human life or the personal safety of others.	ditto	ditto
337	Causing hurt by an act which endangers human life, &c.	ditto	ditto
338	Causing grievous hurt by an act which endangers human life, &c.	ditto	ditto

Of Wrongful Restrai

341	Wrongfully restraining any person. ...	May arrest without warrant.	Summons.
342	Wrongfully confining any person, ...	ditto	ditto
343	Wrongfully confining for three or more days ...	ditto	ditto
344	Wrongfully confining for ten or more days. ...	ditto	ditto
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	ditto
346	Wrongful confinement in secret	May arrest without warrant.	ditto
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	ditto	ditto

THE HUMAN BODY—(*continued.*)

Hurt—concluded.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable ...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	ditto

and Wrongful Confinement.

Bailable.	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
ditto	ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	Not compoundable.	Imprisonment of either description for 2 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	ditto

CHAPTER XVI.—OFFENCES AFFECTING

Of Wrongful Restraint and

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	May arrest without warrant.	Summons.

Of Criminal Force

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	ditto	ditto
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	ditto	ditto
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons.

Of Kidnapping, Abduction,

363	Kidnapping	May arrest without warrant.	Warrant.
364	Kidnapping or abducting in order to murder ...	ditto	ditto
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	ditto	ditto
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	ditto	ditto
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	ditto	ditto

THE HUMAN BODY—(*continued.*)

Wrongful Confinement—concluded.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

and Assault.

Bailable. ...	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
ditto	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	Compoundable.	ditto	ditto
Not bailable.	Not compoundable.	ditto	Any Magistrate.
Bailable.	ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	ditto
ditto	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	ditto

Slavery and Forced Labour.

Not bailable. ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	ditto	ditto

CHAP. XVI—OFFENCES AFFECTING

Of Kidnapping, Abduction, Slavery

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
368	Concealing or keeping in confinement a kidnapped person.	May arrest without warrant.	Warrant.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	ditto	ditto
370	Buying or disposing of any person as a slave ...	Shall not arrest without warrant.	ditto
371	Habitual dealing in slaves	May arrest without warrant.	ditto
372	Selling or letting to hire a minor for purposes of prostitution, &c.	ditto	ditto
373	Buying or obtaining possession of a minor for the same purposes.	ditto	ditto
374	Unlawful compulsory labour	ditto	ditto

Of

376	Rape— If the sexual intercourse was by a man with his own wife.	Shall not arrest without warrant.	Summons.
	In any other case	May arrest without warrant.	Warrant.

Of Unnatural

377	Unnatural offences	May arrest without warrant.	Warrant.

CHAPTER XVII.—OFFENCES

Of

379	Theft	May arrest without warrant.	Warrant.
380	Theft in a building, tent or vessel	ditto	ditto

THE HUMAN BODY—(*concluded.*)

and Forced Labour—concluded.

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable ...	Not compoundable.	Punishment for kidnapping or abduction.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
Bailable.	ditto	ditto	ditto
Not bailable.	ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	ditto	ditto
Bailable.	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

Rape.

Bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
Not bailable. ...	ditto	ditto	ditto

Offences.

Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

AGAINST PROPERTY.

Theft.

Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto

CHAPTER XVII—OFFENCES

Of Theft

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
381	Theft by clerk or servant of property in possession of master or employer.	May arrest without warrant.	Warrant.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.	ditto	ditto

Of

384	Extortion	Shall not arrest without warrant.	Warrant.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	ditto	ditto
386	Extortion by putting a person in fear of death or grievous hurt.	ditto	ditto
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	ditto	ditto
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	ditto	ditto
	If the offence threatened be an unnatural offence.	ditto	ditto
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	ditto	ditto
	If the offence be an unnatural offence ...	ditto	ditto

Of Robbery

392	Robbery	May arrest without warrant.	Warrant.

AGAINST PROPERTY.—(*continued.*)

—concluded.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Rigorous imprisonment for 10 years and fine.	Court of Session.
Extortion.			
Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
Not bailable.	ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Transportation for life.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Transportation for life.	ditto
and Dacoity.			
Not bailable.	Not compoundable.	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class

CHAPTER XVII—OFFENCES

Of Robbery and

1 Section	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
	If committed on the highway between sunset and sunrise.	May arrest without warrant.	Warrant ...
393	Attempt to commit robbery	ditto	ditto
394	Persón voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	ditto	ditto
395	Dacoity	ditto	ditto
396	Murder in dacoity	ditto	ditto
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	ditto	ditto
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	ditto	ditto
399	Making preparation to commit dacoity ...	ditto	ditto
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	ditto	ditto
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	ditto	ditto
402	Being one of five or more persons assembled for the purpose of committing dacoity.	ditto	ditto

Of Criminal Misappro-

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	ditto	ditto
405	If by clerk or person employed by deceased.	ditto	ditto

Of Criminal

406	Criminal breach of trust	May arrest without warrant.	Warrant ...

AGAINST PROPERTY—(*continued.*)

Dacoity.—concluded.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable ...	Not compoundable.	Rigorous imprisonment for 14 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Rigorous imprisonment for 7 years and fine.	ditto
ditto	ditto	Transportation for life or rigorous imprisonment for 10 years and fine.	ditto
ditto	ditto	ditto	Court of Session.
ditto	ditto	Death, transportation for life or rigorous imprisonment for 10 years and fine.	ditto
ditto	ditto	Rigorous imprisonment for not less than 7 years.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Rigorous imprisonment for 10 years and fine.	ditto
ditto	ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	ditto
ditto	ditto	Rigorous imprisonment for 7 years and fine.	ditto
ditto	ditto	ditto	ditto

priation of Property.

Bailable. ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto

Breach of Trust.

Not bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVII.—OFFENCES

Of Criminal Breach

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
407	Criminal breach of trust by a carrier, wharfinger, &c.	May arrest without warrant.	Warrant ...
408	Criminal breach of trust by a clerk or servant	ditto	ditto
409	Criminal breach of trust by public servant or by banker, merchant or agent, &c.	Shall not arrest without warrant.	ditto

Of the Receiving

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	ditto	ditto
413	Habitually dealing in stolen property. ...	ditto	ditto
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	ditto	ditto

Of

417	Cheating	Shall not arrest without warrant.	Warrant ...
418	Cheating a person whose interest the offender was bound, either by law, or by legal contract, to protect.	ditto	ditto
419	Cheating by personation	ditto	ditto

AGAINST PROPERTY—(*continued.*)

of Trust—concluded.

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

of Stolen Property.

Not bailable. ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	ditto
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Cheating.

Bailable.	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto

CHAPTER XVII—OFFENCES

Of

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Shall not arrest without warrant.	Warrant.

Of Fraudulent Deeds and

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors	Shall not arrest without warrant.	Warrant.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	ditto	ditto
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	ditto	ditto
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	ditto	ditto

Of

426	Mischief	Shall not arrest without warrant.	Summons.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	ditto	Warrant.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	ditto
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	ditto	ditto
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	ditto	ditto

AGAINST PROPERTY—(*continued.*)

Cheating—concluded.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Disposition of Property.

Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto
ditto	ditto	ditto	ditto

Mischief.

Bailable. ..	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	Not compoundable.	ditto	ditto
ditto	ditto	Imprisonment of either description for 5 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto .

CHAPTER XVII.—OFFENCES

Of

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	May arrest without warrant.	Warrant.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	ditto	ditto
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	ditto	ditto
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	Shall not arrest without warrant.	ditto
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	ditto
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	ditto	ditto
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	ditto	ditto
438	The mischief described in the last section when committed by fire or any explosive substance.	ditto	ditto
439	Running vessel ashore with intent to commit theft, &c.	ditto	ditto
440	Mischief committed after preparation made for causing death, or hurt, &c.	ditto	ditto

Of Criminal

447	Criminal trespass	May arrest without warrant.	Summons.
448	House-trespass	ditto	Warrant.
449	House-trespass in order to the commission of an offence punishable with death.	ditto	ditto
450	House-trespass in order to the commission of an offence punishable with transportation for life.	ditto	ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment.	ditto	ditto

AGAINST PROPERTY—(*continued.*)

Mischief—concluded.

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable.	Not compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
ditto	ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
Not bailable.	ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	ditto
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 5 years and fine.	ditto

Trespass.

Bailable.	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Any Magistrate.
ditto	ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	ditto
Not bailable.	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
Bailable.	ditto	Imprisonment of either description for 2 years and fine.	Any Magistrate.

CHAPTER XVII—OFFENCES

Of Criminal

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
	If the offence is theft	May arrest without warrant.	Warrant. ...
452	House-trespass, having made preparation for causing hurt, assault, &c.	ditto	ditto
453	Lurking house-trespass or house-breaking ...	ditto	ditto
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	ditto	ditto
	If the offence is theft	ditto	ditto
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	ditto	ditto
456	Lurking house-trespass or house-breaking by night.	ditto	ditto
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	ditto	ditto
	If the offence is theft	ditto	ditto
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	ditto	ditto
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	ditto	ditto
460	Death of grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	ditto	ditto
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	ditto	ditto

AGAINST PROPERTY—(*continued*).

Trespass—continued.

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable. ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 2 years and fine.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 5 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 14 years, and fine.	ditto
ditto	ditto	ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Transportation for life ,or imprisonment of either description for 10 years and fine.	Court of Session.
ditto	ditto	ditto	ditto
Bailable. ...	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVII—OFFENCES

Of Criminal

1 Section	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	May arrest without warrant.	Warrant. ...

CHAPTER XVIII.—OFFENCES RELATING TO DOCU-

465	Forgery	Shall not arrest without warrant.	Warrant.
466	Forgery of a record of a Court of Justice or of a Register of births, &c. kept by a public servant.	ditto	ditto
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, &c.	ditto	ditto
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	ditto
468	Forgery for the purpose of cheating ...	Shall not arrest without warrant.	ditto
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	ditto	ditto
471	Using as genuine a forged document which is known to be forged.	ditto	ditto
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	ditto
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	ditto
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	ditto	ditto
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	ditto	ditto
	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	ditto	ditto

AGAINST PROPERTY—(*concluded.*)

Trespass—concluded.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
MENTS AND TO TRADE OR PROPERTY-MARKS.			
Bailable. ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
Not bailable. ...	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
Bailable. ...	ditto	Imprisonment of either description for 3 years and fine.	ditto
ditto	ditto	Punishment for forgery	ditto
Not bailable ...	ditto	ditto	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	ditto	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	ditto

CHAPTER XVIII.—OFFENCES RELATING TO DOCU-

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Shall not arrest without warrant.	Warrant ...
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	ditto	ditto
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	ditto	ditto

Of Trade and

482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant. ...
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	ditto	ditto
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	ditto	Summons. ...
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark	ditto	ditto
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	ditto	ditto
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	ditto	ditto
488	Making use of any such false mark. ...	ditto	ditto
489	Removing, destroying or defacing any property-mark with intent to cause injury.	ditto	ditto

CHAPTER XIX.—CRIMINAL BREACH

490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person and voluntarily committing to do so.	Shall not arrest without warrant.	Summons. ...

MENTS AND TO TRADE OR PROPERTY-MARKS—(*concluded.*)

5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Not bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 7 years and fine.	Court of Session.
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
ditto	ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	ditto
Property-marks.			
Bailable. ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	ditto
ditto	ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	ditto	ditto
ditto	ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

OF CONTRACTS OF SERVICE.

Bailable. ...	Compoundable	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XIX—CRIMINAL BREACH OF

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons.
492	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	ditto	ditto

CHAPTER XX.—OFFENCES

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to co-habit with him in that belief.	Shall not arrest without warrant.	Warrant ...
494	Marrying again during the lifetime of a husband or wife.	ditto	ditto
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	ditto	ditto
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	ditto	ditto
497	Adultery	ditto	ditto
498	Enticing or taking away or detaining with a criminal intent a married woman.	ditto	ditto

CHAPTER XXI.—

500	Defamation	Shall not arrest without warrant.	Warrant. ...
501	Printing or engraving matter knowing it to be defamatory.	ditto	ditto
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	ditto	ditto

CONTRACTS OF SERVICE—(*concluded.*)

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable ...	Compoundable.	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	ditto

RELATING TO MARRIAGE.

Not bailable. ...	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
Bailable.	ditto	Imprisonment of either description for 7 years and fine.	ditto
Not bailable ...	ditto	Imprisonment of either description for 10 years and fine.	ditto
ditto	ditto	Imprisonment of either description for 7 years and fine.	ditto
Bailable ...	Compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

DEFAMATION.

Bailable. ...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	ditto	
ditto	ditto	ditto	

CHAPTER XXII.—CRIMINAL INTIMIDATION,

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.
504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...
505	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.	ditto	ditto
506	Criminal intimidation	ditto	ditto
	If threat be to cause death or grievous hurt, &c.	ditto	ditto
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	ditto	ditto
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	ditto	ditto
509	Uttering any word or making any gesture intended to insult the modesty of a woman, &c.	ditto	ditto
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	ditto	ditto

CHAPTER XXIII.—ATTEMPTS

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.

OFFENCES AGAINST

	If punishable with death, transportation or imprisonment for 7 years or upwards.	May arrest without warrant.	Warrant. ...
	If punishable with imprisonment for 3 years and upwards but less than seven.	ditto	ditto
	If punishable with imprisonment for less than 3 years.	Shall not arrest without warrant.	Summons.
	If punishable with fine only.	ditto	ditto

INSULT AND ANNOYANCE.

5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
Bailable ...	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
Not bailable ...	Not compoundable.	ditto	Presidency Magistrate or Magistrate of the first or second class.
Bailable ...	Compoundable.	ditto	ditto
ditto	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Imprisonment of either description for 2 years in addition to the punishment under above section.	ditto
ditto	ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
ditto	ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
ditto	ditto	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

TO COMMIT OFFENCES.

According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.

OTHER LAWS.

Not bailable. ...	Not compoundable.	......	According to the provisions of Section 29 of this Code.
ditto Except in cases under the Indian Arms Act, 1878, section 19, which shall be bailable.	ditto	......	
Bailable. ..	ditto	......	
ditto	ditto	......	

SCHEDULE III.

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

(1) Power to arrest, or direct the arrest in his presence of, an offender; section 65.

(1A)[a] Power to arrest, or direct the arrest, and to commit to custody a person committing an offence in his presence, section 64.

(2) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant; sections 83, 84 and 86.

(3) Power to issue proclamations in cases judicially before him, section 87.

(4) Power to attach and sell property in cases judicially before him, section 88.

(5) Power to restore attached property, section 89.

(6) Power to issue search-warrant, section 96.

(7) Power to endorse a search-warrant and order delivery of thing found, section 99.

(8) Power to record statements or confessions during a police-investigation, section 164.

(9) Power to authorize detention of a person during a police investigation, section 167.

(10) Power to detain an offender found in Court, section 351.

(11) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of the third class.

(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class.

(2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.

(3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.

(4) Power to require security to keep the peace, section 107.

(5) Power to require security for good behaviour, section 109.

(6) Power to make orders, &c., in possession cases, sections 145, 146, and 147.

(7) Power to commit for trial, section 206.

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[a] (1A) has been added by Act XII of 1891, 2nd Sch.

SCHEDULE III—*concluded.*

(8) Power to stop proceedings when no complainant, section 249.

(9) Power to make orders of maintenance, sections 488 and 489.

IV.—Ordinary Powers of a Sub-divisional Magistrate.

(1) The ordinary powers of a Magistrate of the first class.

(2) Power to direct warrants to landholders, section 78.

(2A)a Power to require security for good behaviour, section 110.

(3) Power to make orders as to local nuisances, section 133.

(4) Power to make orders prohibiting repetitions of nuisances, section 143.

(5) Power to make orders under section 144.

(6) Power to hold inquests, section 174.

(7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(8) Power to entertain complaint, section 191.

(9) Power to receive police-reports, section 191.

(10) Power to entertain cases without complaint, section 191.

(11) Power to transfer cases to a Subordinate Magistrate, section 192.

(12) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, Section 349.

(13) Power to sell property alleged or suspected to have been stolen, &c, section 524.

(14) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.

V.—The ordinary Powers of a District Magistrate.

(1) The ordinary powers of a sub-divisional Magistrate, being a Magistrate of the first class.

(2) Power to issue search-warrants for documents in custody of Postal or Telegraph authorities, section 96.

(3) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.

(4) Power to cancel bond for keeping the peace, section 125.

(5) Power to try summarily, section 260.

(6) Power to quash convictions in certain cases, section 350.

(7) Power to hear appeals from orders requiring security for good behaviour, section 406.

(8) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.

(9) Power to call for records, section 435.

(10) Power to revise orders passed under section 514, section 515.

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a Article (2A) has been inserted by Act X of 1886, s. 19.

SCHEDULE IV.

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED.	By the Local Government.	(1) Power to require security for good behaviour, section 110: (2) Power to make orders as to local nuisances, section 133: (3) Power to make orders prohibiting repetitions of nuisances, section 143: (4) Power to make orders under section 144: (5) Power to hold inquests, section 174: (6) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186: (7) Power to take cognizance of offences upon complaint, section 191: (8) Power to take cognizance of offences upon police reports, section 191: (9) Power to take cognizance of offences upon information, section 191: (10) Power to try summarily, section 260: (11) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407: (12) Power to sell property alleged or suspected to have been stolen, &c., section 524.

SCHEDULE IV—*continued.*

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED—*continued.*	By the District Magistrate.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 191: (5) Power to take cognizance of offences upon police reports, section 191: (6) Power to transfer cases, section 192:
POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	By the Local Government.	(1) Power to pass sentences of whipping, section 32: (2) Power to make orders prohibiting repetitions of nuisances, section 143: (3) Power to make orders under section 144: (4) Power to hold inquests, section 174: (5) Power to take cognizance of offences upon complaint, section 191: (6) Power to take cognizance of offences upon police reports, section 191: (7) Power to take cognizance of offences upon information, section 191: (8) Power to commit for trial, section 206:
	By the District Magistrate.	(1) Power to make orders prohibiting repetitions of nuisances, section 142: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 191: (5) Power to take cognizance of offences upon police reports, section 191:

SCHEDULE IV—*concluded.*

POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 191: (5) Power to take cognizance of offences upon police-reports, section 191: (6) Power to commit for trial, section 206:
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 191: (5) Power to take cognizance of offences upon police reports, section 191:
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	Power to call for records, section 435.

SCHEDULE V.

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(*See section* 68.)

To   of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*) before the (*Magistrate*)   of   , on the   day of   . Herein fail not.

Dated this   day of   , 18 .

(*Seal.*)   (*Signature.*)

SCHEDULE V—*continued.*

II.—Warrant of Arrest.

(*See section* 75.)

To (*name and designation of the person or persons who is or are to execute the warrant.*)

Whereas of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

(*See section* 76.)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of , 18 .

(*Signature.*)

III.—Bond and Bail-bond after Arrest under a Warrant.

(*See section* 86.)

I, (*name*) of , being brought before the District Magistrate of (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

I do hereby declare myself surety for the abovenamed of , that he shall attend before in the Court of on the day of next to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

SCHEDULE V—*continued.*

IV.—Proclamation requiring the Appearance of a Person accused.

(*See section* 87.)

Whereas complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code XLV of 1860, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said of is required to appear at (*place*) before this Court (*or* before me) to answer the said complaint within days from this date.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

V.—Proclamation requiring the Attendance of a Witness.

(*See section* 87.)

Whereas complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock, to be examined touching , the offence complained of.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

VI.—Order of Attachment to compel the Attendance of a Witness.

(*See section* 88.)

To the police-officer in charge of the Police-station at .

Whereas a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant); and thereupon a Proclamation was duly issued and published requiring the said to appear and give evidence at the time and place mentioned therein, and he has failed to appear;

SCHEDULE V—*continued.*

This is to authorize and require you to attach by seizure the moveable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(*See section* 88.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code XLV of 1860, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or* town) of , in the District of , *viz.*, , and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(*See section* 88.)

To the Deputy Commissioner of the District of .

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indin Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said

SCHEDULE V—*continued.*

warrant) and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days, but he as not appeared; and whereas the said is possessed of certain land paying revenue to Government in the village (*or* town) of in the District of .

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

VII.—Warrant in the first instance to bring up a Witness.

(*See section* 90.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

Whereas complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorize and require you to arrest the said (*name*) and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

VIII.—Warrant to search after Information of a particular Offence.

(*See section* 96.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant.*)

Whereas information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (*or* about to be made) into the said offence (*or* suspected offence);

This is to authorize and require you to search for the said (*the thing specified*) in the (*describe the house or place, or part thereof, to which the search is to be

SCHEDULE V—*continued.*

confined), and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(*See section* 98.)

To (*name and designation of a Police-officer above the rank of a Constable.*)

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or, if for either of the other purposes expressed in the section, state the purpose in the words of the section*);

This is to authorize and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or if the search is to be confined to a part, specify the part clearly* (and to seize and take possession of any property (*or* documents, *or* stamps, *or* seals, *or* coins, *as the case may be*)—[Add (*when the case requires it*) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court, such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

X.—BOND TO KEEP THE PEACE.

(*See section* 106.)

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself, not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and, in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

SCHEDULE V—*continued.*

XI.—Bond for Good Behaviour.

(*See sections* 109 *and* 110.)

Whereas I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen Empress of India, and to all her subjects for the term of (*state the period*), I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

(*Where a bond with sureties is to be executed, add*)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

XII.—Summons on Information of a probable Breach of the Peace.

(*See section* 114.)

To of .

Whereas it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (*or* by a duly authorized agent) at the Office of the Magistrate of on the day of 18 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required, add,* and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of rupees (each *if more than one*)], that you will keep the peace for the term of .

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XIII.—Warrant of Commitment on Failure to find Security to keep the Peace.

(*See section* 123.)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas (*name and address*) appeared before me in person) *or* by his authorized agent) on the day of in obedience to a summons

SCHEDULE V—*continued.*

calling upon him to show cause why he should not enter into a bond for rupees with one surety (or a bond with two sureties each in rupees), that he, the said (*name*), would keep the peace for the period of months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order.

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply wilh the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XIV.—Warrant of Commitment on Failure to find Security for Good Behaviour.

(*See section* 123.)

To the Superintendent (*or* Keeper) of the Jail at

Whereas it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or* and that he is unable to give any satisfactory account of himself);

or

Whereas evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or* housebreaker, &c., *as the case may be*);

And whereas an order has been recorded stating the same and requiring the said, (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees , and the said surety (*or* each of the said sureties) for rupees , and the said (*name*) has failed to comply with the said order, and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless he shall in the meantime comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be

SCHEDULE V—*continued.*

received and the said (*name*) released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 ,

(*Seal.*) (*Signature.*)

XV.—Warrant to discharge a Person imprisoned on Failure to give Security.

(*See sections* 123 *and* 124.)

To the superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*).

Whereas (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since duly given security under section of the Code of Criminal Procedure,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XVI.—Order for the Removal of Nuisances.

(*See section* 133.)

To (*name, description and address*).

Whereas it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, &c. (*describe the road or public place*), by &c. (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists,

or

Whereas it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place;

or

Whereas it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation)

SCHEDULE V—*continued.*

adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence (*or* insecurely fenced);

or

WHEREAS, &c., &c. (*as the case may be*);

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, &c.;

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of offence and the part to be fenced*); or to appear, &c.;

or

I do hereby direct and require you, &c., &c. (*as the case may be*).

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(*See section* 138.)

WHEREAS on the day of , 18 , an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me, by a petition bearing date the day of , for an order appointing a Jury to try whether the said recited order is reasonable and proper; I do hereby appoint (*the names, &c., of the five or more Jurors*) to the Jury to try and decide the said questions and do require the said Jury to report their decision within days from the date of this order at my office at .

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

SCHEDULE V—*continued*.

XVIII.—Magistrate's Notice and Peremptory Order after the Finding by a Jury.

(*See section* 140.)

To (*name, description and address*).

I hereby give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of , requiring you (*state substantially the requisition in the order*), is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code, XLV of 1860, for disobedience thereto.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XIX.—Injunction to provide against Imminent Danger pending Inquiry by Jury.

(*See section* 142.)

To (*name, description and address.*)

Whereas the inquiry by a Jury appointed to try whether my order issued on the day of , 18 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XX.—Magistrate's Order prohibiting the repetition, &c., of a Nuisance.

(*See section* 143.)

To (*name, description and address.*)

Whereas it has been made to appear to me that, &c. (*state the proper recital, guided by* Form No. XVI or Form No. XXI, *as the case may be*);

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, &c. (*as the case may be*).

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

SCHEDULE V—*continued.*

XXI.—Magistrate's Order to prevent Obstruction, Riot, &c.

(*See section* 144.)

To (*name, description and address*).

Whereas it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

Whereas it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public street, &c. (*as the case may be*), and that such procession is likely to lead to a riot or an affray;

or

Whereas, &c., &c. (*as the case may be*);

I do hereby order you not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or, as the case recited may require*).

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXII.—Magistrate's Order declaring Party entitled to retain Possession of Land, &c., in Dispute.

(*See section* 145.)

It appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true.

I do decide and declare that he is (*or* they are) in possession of the said

SCHEDULE V—*continued.*

(*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or* their) possession in the meantime.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal*) (*Signature.*)

XXIII.—Warrant of Attachment in the Case of a Dispute as to the Possession of Land, &c.

(*See section* 146.)

To the Police-officer in charge of the Police-station at [*or*, To the Collector of].

Whereas it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) *or* I am unable to satisfy myself as to which of the said parties was in possession as aforesaid;

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXIV.—Magistrate's Order prohibiting the doing of anything on Land or Water.

(*See section* 147.)

A dispute having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by*

SCHEDULE V—*continued.*

an individual or a class of persons, describe him or them), and (*if the use can be enjoyed throughout the year*) that the said use has been enjoined within three months of the institution of the said inquiry (*or if the use is enjoyable only at particular seasons, say* " during the last of the seasons at which the same is capable of being enjoyed ");

I do order that the said (*the claimant or claimants of possession*) or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this . day of , 18 .

(*Seal.*) (*Signature.*)

XXV.—Bond and Bail-bond on a preliminary Inquiry before a Police-officer.

(*See section* 169)

I, (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of ,

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the above-said that he shall attend at , in the Court of , on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

SCHEDULE V—*continued.*

XXVI.—Bond to prosecute or give Evidence.

(*See section* 170.)

I, (*name*), of (*place*), do hereby bind myself to attend at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or* to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature*).

XXVII.—Notice of Commitment by Magistrate to Government Pleader.

(*See section* 218.)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, &c. (*state the offence as in the charge*).

Dated this day of , 18 .

(*Signature.*)

XXVIII.—Charges.

(*See sections* 221, 222, 223.)

(I)—Charges with one Head.

(*a*) I, [*name and office of Magistrate &c.*], hereby charge you [*name of accused person*] as follows:—

(*b*) That you, on or about the day of , at waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, XLV of 1860, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court].

O Penal Code, section 121.

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*):—]

(2) That you, on or about the day of , at , with the intention of inducing the Hon'ble *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Mem-

On section 124.

SCHEDULE V—*continued.*

ber, and thereby committed an offence punishable under section 124 of the Indian Penal Code, XLV of 1860, and within the cognizance of the Court of Session [*or* High Court].

(3) That you, being a public servant in the Department, directly accepted from [*state the name*], for another party [*state the name*], a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 161.

(4) That you, on or about the day of , at , did [*or* omitted to do, *as the case may be*] , such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 166.

(5) That you, on or about the day of , at , in the course of the trial of , before stated in evidence that " " which statement you either knew or believed to be false, *or* did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 193.

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 304.

(7) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 306.

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 325.

(9) That you, on or about the day of , at , robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 392.

SCHEDULE V—*continued.*

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 395.

[*In cases tried by Magistrates substitute* "within my cognizance" *for* "within the cognizance of the Court of Session," *and in* (*c*) *omit* "by the said Court."]

(II)—Charges with two or more Heads.

(*a*) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*] as follows :—

(*b*) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, XLV of 1860, and within the cognizance of the Court of Session [*or* High Court].

On section 241.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*)] :—

(2) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(3) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 379 and 382.

SCHEDULE V—*continued.*

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court.]

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Alternative charges on section 193.

(4) That you, on or about the day of , at , in the course of the inquiry into , before , stated in evidence that " " and that you, on or about the day of , at , in the course of the trial of , before , stated in evidence that " ", one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

[*In cases tried by Magistrates substitute* "within my cognizance" *for* "within the cognizance of the Court of Session," *and in* (*c*) *omit* "by the said Court."]

(III)—CHARGE FOR THEFT AFTER A PREVIOUS CONVICTION.

I, (*name and office of Magistrate, &c.*), hereby charge you (*name of accused person*) as follows :—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, XLV of 1860, and within the cognisance of the Court of Session [*or* (High Court Magistrate) *as the case may be*].

And you the said (*name of accused*) stand further charged that you, before the committing of the said offence, that is to say, on the day of , had been convicted by the (*state Court by which conviction was*

SCHEDULE V—*continued.*

had) at of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the word used in the section under which the offence was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, &c.

XXIX.—Warrant or Commitment on a Sentence of Imprisonment or Fine if passed by a Magistrate.

(*See sections* 245 *and* 258.)

To the Superintendent (*or* Keeper) of the Jail at ,

Whereas on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 18 , was convicted before me *name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (*or* sections) of the Indian Penal Code (*or* of Act), and was sentenced to (*state the punishment fully and distinctly*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXX.—Warrant of Imprisonment on Failure to recover Amends by Distress.

(*See section* 250.)

To the Superintendent (*or* Keeper) of the Jail at

Whereas (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in jail for the period of days, unless the aforesaid sum be sooner paid ;

SCHEDULE V—*continued.*

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXI.—SUMMONS TO A WITNESS.

(*See sections* 68 *and* 252.)

To of .

WHEREAS complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*state the offence concisely with time and place*) and it appears to me that you are likely to give material evidence for the prosecution;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(*See section* 326.)

To the District Magistrate of .

WHEREAS a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(*Here enter the names of Jurors and Assessors.*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

SCHEDULE V—*continued.*

XXXIII.—Summons to Assessor or Juror.

(*See section* 328.)

To (*name*) of (*place*).

Pursuant to a precept directed to me by the Court of Session of requiring your attendance as an Assessor (*or* a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (*place*) at ten o'clock in the forenoon on the day of next.

Given under my hand and the seal of office, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXIV.—Warrant of Commitment under Sentence of Death.

(*See section* 374.)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas at the Session held before me on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, XLV of 1860, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorise and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXV.—Warrant of Execution on a sentence of Death.

(*See section* 381.)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death; and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorise and require you, the said Superintendent (*or* Keeper), to carry the said sentence into execution by causing the said to be

SCHEDULE V—*continued.*

hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXVI.—Warrant after a Commutation of a Sentence.

(*See sections* 381 *and* 382.)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas at a Session held on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or as the case may be*);

This is to authorize and require you, the said Superintendent (*or* Keeper), safely to keep the said (*prisoner's name*) in your custody in the said Jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said jail" "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXVII.—Warrant to levy a Fine by Distress and Sale.

(*See section* 386.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

Whereas (*name and description of the offender*) was, on the day of 18 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees , and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

SCHEDULE V—*continued.*

This is to authorise and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XXXVIII.—Warrant of Commitment in certain Cases of Contempt when a Fine is imposed.

(*See section* 480.)

To the Superintendent (*or* Keeper) of the Jail at .

Whereas at a Court holden before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*);

This is to authorise and require you, the Superintendent (*or* Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXIX.—Magistrate's or Judge's Warrant of Commitment of Witness refusing to answer.

(*See section* 485.)

To (*name and designation of officer of Court*).

Whereas (*name and description*) being summoned (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*);

SCHEDULE V—*continued.*

This is to authorise and require you to take the said (*name*) into custody, and him safely keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XL.—Warrant of Imprisonment on Failure to pay Maintenance.

(*See section* 488.)

To the Superintendent (*or* Keeper) of the Jail at

Whereas (*name*) *description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [*or* his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (*or* himself)] and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of : And thereupon an order was made adjudging him to undergo simple (*or* rigorous) imprisonment in the said jail for the period of ;

This is to authorise and require you, the said Superintendent (*or* Keeper) to receive the said (*name*) into your custody in the said jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18. .

(*Seal.*) (*Signature.*)

XLI.—Warrant to enforce the payment of Maintenance by Distress and Sale.

(*See section* 488.)

To (*name and designation of the Police-officer or other person to execute the warrant*).

Whereas an order has been duly made requiring (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees , and

SCHEDULE V—*continued.*

whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLII.—Bond and Bail-bond on a preliminary Inquiry before a Magistrate.

(*See sections* 496 *and* 499.)

I, (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*), charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

I hereby declare myself (*or* We jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and, in case of his making default therein, I bind myself (*or* we bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

SCHEDULE V—*continued.*

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See section* 500.)

To the Superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or* sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

This is to authorise and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(*See section* 514.)

To the Police officer in charge of the Police-station at .

WHEREAS (*name, description and address of person* has failed to appear on (*mention the occasion*) pursuant to his recognisance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorize and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(*See section* 514.)

To of .

WHEREAS on the day of , 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*)

SCHEDULE V—*continued.*

has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVI.—Notice to Surety of Forfeiture of Bond for good Behaviour.

(*See section* 514.)

To of .

Whereas on the day of , 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited ;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVII.—Warrant of Attachment against a Surety.

(*See section* 514.)

To of .

Whereas (*name description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*) ;

This is to authorise and require you to attach any moveable property of the said (*name*) which you may find within the district of , by seizure and detention ; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize

SCHEDULE V—*continued.*

the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section* 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the civil jail for (*specify the period*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(*See section* 514.)

To (*name, description and address*).

WHEREAS on the day of , 18 , you entered into a bond not to commit, &c. (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees , or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

SCHEDULE V—*continued.*

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section* 514.)

To (*name and designation of Police-officer*), at the Police-station of .

WHEREAS (*name and description*) did, on the day of , 18 . enter into a bond for the sum of rupees , binding himself not to commit a breach of the peace, &c., (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section* 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas the said (*name*) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the civil jail for the period of (*term of imprisonment*);

This is to authorize and require you, the said Superintendent (*or* Keeper) of the said civil jail, to receive the (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*); and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

SCHEDULE V—*concluded.*

LII.—Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour.

(*See section* 514.)

To the Police-officer in charge of the Police-station at .

Whereas (*name, description and address*) did, on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (*name, &c., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of , whereby the said bond has been forfeited; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realize the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

LIII.—Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour.

(*See section* 514.)

To the Superintendent (*or* Keeper) of the Civil Jail at .

Whereas (*name, description and address*) did, on the day of 18 , give security by bond in the sum of rupees for the good behaviour of (*name, &c., of the principal*), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the civil jail for the period of (*term of imprisonment*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

ADDENDUM.

ACT NO. V of 1889.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of His Excellency the Governor-General on the 1st March 1889.)

AN ACT *to abolish the Office of Coroner of Madras.*

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871, [*IV of* 1871] the Coroners Act, 1881, [*X of* 1881] and the Code of Criminal Procedure, 1882; [*X of* 1882] It is hereby enacted as follows:—

Commencement.

1. This Act shall come into force on such day as the Governor of Fort St. George in Council may by notification in the Fort St. George Gazette appoint in this behalf.

Amendment of the Coroners Act, 1871.

2. For section 3 of the Coroners Act, 1871, [*IV of* 1871] the following shall be substituted, namely:—

Coroners of Calcutta and Bombay.

"3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay."

Amendment of the Coroners Act, 1881.

3. (1) For the preamble to the Coroners Act, 1881, [*X of* 1881] the following shall be substituted, namely:—

"Whereas it is expedient to amend the Coroners Act, 1871, [*IV of* 1871] in manner hereinafter appearing; It is hereby enacted as follows:—"

(2) Sections 2, 3 and 4 of the Coroners Act, 1881, [*X of* 1881] are hereby repealed.

Amendment of the Code of Criminal Procedure.

4. (1) Clause (*e*) of section 1 of the Code of Criminal Procedure, 1882, [*X of* 1882] is hereby repealed.

(2) Sections 174, 175 and 176 of that Code shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras, be read as follows, namely:—

Enquiry into violent or suspicious death to be ordinarily conducted by officer in charge of police-station.

"174. (1) An officer in charge of a police-station, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the Commissioner of Police and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of five or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

"(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

"(3) In any of the following cases, namely:—

(*a*) in any case in which the Local Government may by rule so require,

(*b*) in any case in which death appears to have been caused by violence or there is any doubt regarding the cause of death,

(*c*) in any other case in which the police-officer considers it expedient so to do,

he shall cause the body to be examined by a medical officer appointed in this behalf by the Local Government.

"(4) The police-officer may, by order in writing, summon five or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all

questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

"(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police-stations.

"175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(*a*) the circumstances in which an officer in charge of a police-station, after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (*a*), clause, (*b*) or clause (*c*) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(*b*) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders under sub-section (1) may be the Commissioner of Police or any of his Deputies or Assistants or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers and shall perform the duties which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

Provisions with respect to inquiries by Presidency Magistrates and the disinterment of dead bodies.

"176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174, sub-section (1), clause (*a*), clause (*b*) or clause (*c*), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

"(2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined".—[*Act No. V of* 1889, *s.* 4.]

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